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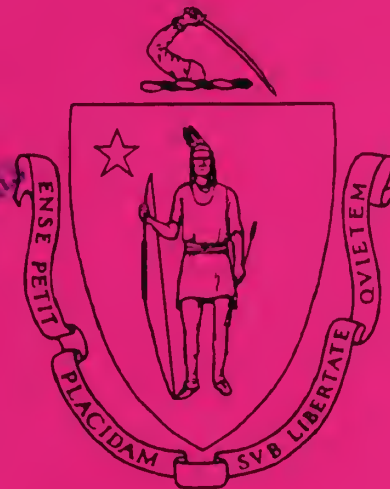
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Purchase-of-Service System

User Handbook

Issued by:

Division of Purchased Services

Department of Procurement & General Services

Executive Office for Administration & Finance

Room 1017, One Ashburton Place

Boston, MA 02108

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APPROVED BY PHILMORE ANDERSON III, STATE PURCHASING AGENT



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October 30, 1992

Dear Participant in the Commonwealth's Purchase-of-Service System:

This **Purchase-of-Service System User Handbook**, issued by the Division of Purchased Services, describes the practices and procedures involved in the purchase of social service programs from private provider organizations by Commonwealth of Massachusetts Purchasing Agencies. The Handbook also contains new material reflecting the purchase-of-service (POS) reform activities of the Division of Purchased Services. Please take the time to read this Handbook carefully.

All readers should be aware that the Handbook reflects the full authority of the Division of Purchased Services to set standards for all social and human service contracting activity in the Commonwealth. Purchasing agencies and providers are required to follow the principles and procedures outlined in its pages.

The User Handbook is intended to be a "living" document. Each page has an effective date listed on it. From time to time, the Division will automatically distribute updates or supplemental information to this Handbook to all users. It is our hope that the loose-leaf binder format and the "subscription service" distribution approach will aid users in incorporating updated information as it becomes available.

I would very much like to thank Tanja Ryden, Director, DPS Bureau of Technical Support, for her work in overseeing the production of this document. Her intelligence, energy, patience, and perseverance made this Handbook a reality. I would also like to thank all DPS Bureau Directors for their support. I am especially pleased to express my appreciation to the artists who have contributed creative writing and artwork to enliven the Handbook and who remind us all of our purpose. Finally, special thanks must go to the scores of provider agency and purchasing agency volunteers who labored long hours over successive drafts of Handbook chapters. Let's hope we got it right.

And let's hope we make things better.

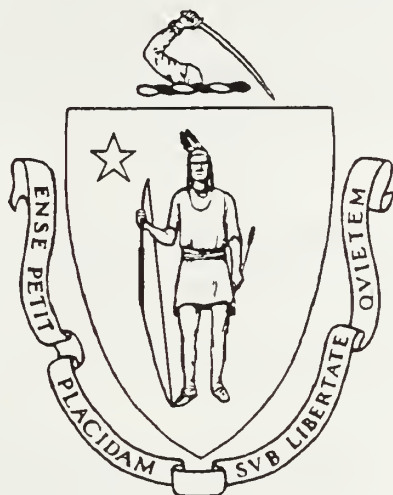
Please feel free to call me if you have questions about this Handbook. Thank you for your help and your fine work on behalf of the citizens of the Commonwealth.

Sincerely,

Dana Roszkiewicz
Assistant Commissioner/Deputy Purchasing Agent



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Christian Macdonald
'92

"Gateway Crafts Studio," Ink drawing by Christian Macdonald, artisan at Gateway Crafts, a Vinfen Corporation program for adults with developmental disabilities.

Christian Macdonald was born in Cambridge, Massachusetts on April 30, 1969 and has been a program member of Gateway Crafts since April 1992. He began to draw when he was four years old. His affinity for art continued as he drew pictures on the ceiling over his upper bunk bed. During his years at the Learning Prep School, he had a number of courses in graphic design. Along with his interest in art, Christian enjoys cars, movies and music of the 1960's.

CHAPTER I: INTRODUCTION AND OVERVIEW

This chapter will provide an overview of this **Purchase-of-Service System User Handbook** and a general introduction to how contracting for client social services occurs in Massachusetts through the purchase-of-service (POS) system. The various state agencies which provide services to clients and citizens of the Commonwealth purchase a wide range of those services through contracts with private organizations (i.e., 'Providers'). Since the early 1970's the growth of Massachusetts' purchase-of-service system has been significant and by 1992 stood at approximately \$1.25 billion of annual expenditures in thousands of contracts. The Division of Purchased Services (DPS) is the state office that is responsible for overseeing the POS system in Massachusetts and has issued this User Handbook to provide guidance to both state Purchasing Agencies and to Providers.

A. ROLE OF THIS HANDBOOK

This Handbook was developed to serve as the first truly comprehensive source of information and advice to all Purchasers and Providers involved in the operations of the Commonwealth's purchase-of-service system. It expands on the regulations promulgated by the Division of Purchased Services by giving clear guidance on key implementation issues. It also articulates major policy statements, new procedural standards, and refinements to past contracting practice which further our efforts to reform the POS system. The effective date of any new requirements or policies stated in this Handbook will be listed on the bottom of each page of text.

Because of the scope of this initiative, there are some topics contained in the Handbook which are not yet fully addressed and which will be further discussed by DPS. Additional materials, revisions, and updates to the Handbook will be distributed periodically. As updates are issued the new effective date will be stated on each page. We in the Division will take pains to forward this information to all relevant participants as it becomes available.

It should also be noted that this Handbook is intended to become the standard for all social and human service contracting activity in the Commonwealth. Inasmuch as the Handbook reflects the authority of the Division of Purchased Services, which is established by legislative mandate and further developed in the DPS regulations, all Purchasing Agencies have the responsibility to follow the principles and procedures outlined in its pages. Purchasing Agencies which seek to depart from any of the required procedures or standards stated in the Handbook must seek a waiver from DPS prior to proceeding.

Finally, we have attempted to make this Handbook accessible to the widest possible audience of participants in the POS system. For this reason, much of the material is presented in a basic, straightforward style, with considerable background or explanatory information. At the same

time, there are many issues examined in this document which are highly complex and technical in nature. We hope, in the end, that the Handbook serves as a useful tool for both the newcomer to the POS system as well as the seasoned contracting professional.

The Handbook is organized to make it relatively simple to use for the vast majority of participants in the Commonwealth's purchase-of-service system. At the beginning, we provide a very general overview of the annual contracting cycle, with some related information about the size, scope, and nature of the POS system. In the chapters that follow, we focus on each of the major activities associated with the contracting cycle. We will discuss the DPS requirements associated with the process for selecting Providers, as well as the eligibility requirements for participation in the POS system. Following these introductory stages of the POS process, we will turn our attention to pricing and various technical contracting procedures. Finally, we will provide information and guidance on matters relating to contract administration. We have also included an Appendix, which contains many of the source documents referred to throughout the Handbook, as well as valuable reference information and resource materials.

Please take the time to read this Handbook carefully. Many of the standards and procedures mentioned within its pages are new or revised in important ways. It is our hope that these materials will improve the efficiency and quality of the Commonwealth's system of contracting for social and human services for all involved.

Each Provider organization currently contracting in the POS system has been scheduled to receive one complementary copy of this Handbook, with the cost of printing covered by its Principal Purchasing Agency. The initial distribution of the Handbook to Providers and was coordinated by the Division of Purchased Services, using the UFR filing data base as the source for mailing information. Recipients of this Handbook are free to reproduce all or portions of these materials as desired.

Additional copies of the complete POS System User Handbook including any updates, as issued, may also be ordered directly from the Department of Procurement and General Services. An order form is contained in Appendix 13.

B. INTRODUCTION TO THE DIVISION OF PURCHASED SERVICES

The Division of Purchased Services (DPS) was established by the Legislature in 1990 for the purpose of fostering the development, implementation, and coordination of a fair and accountable system for the purchase by Commonwealth agencies of all client social services, including social, special educational, mental health, mental retardation, habilitative, rehabilitative, vocational, employment, training, and elder services, but excluding any program or service which is reimbursable under Title XIX of the Social Security Act (commonly known as Medicaid). The

underlying statute governing contracts with organizations providing social services (M.G.L. c. 29, s. 29B) and the most recent enabling language for the Division (St. 1992, c. 133, s. 113) are included in Appendix 2. The Division accomplishes its mission by means of the oversight and establishment of rules and regulations governing many of the key activities involved in the purchase-of-service (POS) process. These activities include contract procurement, pricing, contract administration, program monitoring, program evaluation, and audit.

In order to address these areas of contract activity effectively and efficiently, the Division has been organized into four bureaus:

The Pricing Bureau is responsible for establishing standards for pricing purchased programs. This may occur by means of the publication by DPS of pricing standards for use in the negotiation by state agencies of Provider contracts. In the case of special education services, and in certain other cases, the Division sets the actual rates directly.

The Bureau of Technical Support is responsible for providing ongoing support and assistance to Purchasing Agencies and Providers regarding the technical aspects of contracting with the Commonwealth. This may include assistance in developing contract forms and POS-related guidance materials, in explaining how to utilize the Commonwealth's automated accounting system to facilitate contract approval and reimbursement, and in implementing data systems which will allow all interested parties access to important information about the nature and functioning of the purchase-of-service system, among many other things.

The Bureau of Program Development attempts to serve the needs of Purchasing Agencies and Providers by understanding the programmatic goals and objectives of those agencies and working with all parties to determine the purchasing mechanism best suited to those goals and objectives. This bureau also works with Purchasers and Providers to address a variety of ongoing programmatic issues arising in the context of the Commonwealth's contracting system and to assist Purchasing Agencies in developing and implementing more effective monitoring, evaluation, and quality assessment functions.

The Bureau of Audit is responsible for establishing and implementing audit standards for independent financial and performance audits of Providers of social and human service programs as well as for governmental entities. These audits are to be conducted in a manner consistent with generally accepted government auditing standards. This Bureau also works to ensure the quality of POS audit activity through the use of routine review and resolution practices.

In Appendix 3 you will find a current listing of all DPS staff and their bureau assignments. Please feel free to use this listing if you require assistance in any aspect of the Commonwealth's purchase-of-service system.

C. POS REFORM--THE GUIDING PRINCIPLE OF THE DIVISION OF PURCHASED SERVICES

The Division of Purchased Services was created in order to further the reform principles and technical initiatives set forth in the late 1980's by the Office of Purchased Services under the direction of Peter Nessen. These initiatives are founded on a number of key principles, including, the principle that in the contracting system the client or consumer should come first, that considerations of price should follow considerations of programmatic necessity, and that the Commonwealth's contracting system should contain sufficient fiscal and procedural protections to allow well-run, high-quality Provider organizations to survive as businesses. Below, we have set forth some of the ongoing initiatives which are based on these key principles:

1. Support Competitive Procurement Activity

The Division is committed to the notion that fostering open and fair competition for contracted services results in better services to clients and more cost-effective programs for purchasers. To this end, we have initiated the re-design and implementation of competitive procurement cycles for Purchasing Agencies.

2. Create a Fair Pricing Mechanism

The Division is committed to bringing the Component Pricing Initiative, conceived in the Office of Purchased Services, into general use in the POS system. This system is based on the development of a Component Price Catalogue, which consists of a set of prices for program functional components. These pricing guidelines, which are market-based, are then used in the negotiation of contract prices as part of the competitive procurement process.

3. Enhance Focus on Performance

The Division is working closely with Purchasing Agencies and Provider groups to aid in the development and expanded use of client-based performance measures in social and human service contracts and in competitive procurement activities. At the same time, Purchasing Agencies and Providers are involved in developing more effective ongoing program monitoring and evaluation strategies.

4. Standardize and Streamline

It is one of the goals of DPS to make the POS system work in a more efficient fashion by taking steps, whenever possible, to standardize and streamline the requirements of the Commonwealth's contracting process.

5. Develop Data Systems

The Division has been engaged since its inception in the development of comprehensive data systems which will allow all interested parties a heightened level of awareness of the services purchased by the Commonwealth and of the organizations delivering those services.

6. Stabilize the POS System

The stabilization of the contracted service system has been a goal of DPS since its inception. At the current time, the Division is attempting, through its regulations and guidance materials, to give further support to the notion of true five-year contracts and a firm five-year procurement cycle. Efforts at fostering market based pricing and balancing control with flexibility are also intended to support the viability of the Provider community.

7. Improve Effectiveness of the Audit Process

Since the development and implementation of a standardized financial reporting system through the Uniform Financial Statements and Independent Auditor's Report (UFR), DPS has been very actively engaged in giving guidance and advice to the Provider community and to Certified Public Accountants regarding the appropriate completion of that important document. Our efforts in this regard will continue, and we expect to focus our activity in the coming year on improving the quality of Provider submissions by means of intensified training and submission review activity.

Throughout the pages of this Handbook, you will see the principles of reform in action. We have endeavored to use the development of this Handbook as a means of introducing new reform-related concepts or expanding current POS practices to better accommodate our efforts to improve the purchase-of-service system. For example, this document reflects, in the chapters devoted to procurement and contract renewal activity, progress in the development of a true five-year contract. Additionally, we have included, in the chapter on pricing, information about component pricing that extends prior thinking in this important subject area. We hope that, through the information contained in this document, we can continue to meet the needs of Commonwealth taxpayers for an efficient, accountable POS system at the same time as we build a purchase system dedicated to the idea that "the client or consumer comes first."

D. SCOPE OF THE PURCHASE-OF-SERVICE SYSTEM

As stated previously, the purchase-of-service system in Massachusetts is very large and covers a wide spectrum of human service programs. This Handbook and the underlying regulations governing the state purchase-of-service system apply only to expenditures for social services, excluding client transportation, that are recorded under object codes M01, MM1, M03, MM3, M05, M06 and M08 in the Office of the Comptroller's Expenditure Classification Handbook. Some of the requirements outlined here apply to certain services purchased under object code M07. (See Appendix 10 for a description of these object codes.)

What is considered purchase-of-service (POS)?

In general terms, we are talking about the purchase of social services for clients that are governed by a contractual agreement between a state Purchasing Agency and a Provider, whether a private individual or an organization. When we talk about social services, we include social, special educational, some health and medical, mental health, mental retardation, habilitative, rehabilitative, certain employment and training programs, and elder services to clients, residents, students and other consumers. Also included are certain purchased services, such as provider staff training or information and referral programs, which do not involve direct client care but instead support or supplement direct client services. In Appendix 11 you will find a listing of the categories of various POS programs purchased in the Commonwealth.

The state POS system described in this Handbook does not govern reimbursements or stipends to cover client expenses or expenses incurred on behalf of a client (such as foster family stipends), which are classified under object code M02. The POS system also does not include tuition payments, which are classified under object code M07, except for Chapter 71B approved private school programs. Nor does it include other benefit programs, such as AFDC, Medicaid, Healthy Start, certain employment assistance, etc. to which a client may have a statutory or other legal right. These benefit programs are categorized as primarily financial assistance and the eligibility of beneficiaries is determined by the state agency that is authorized to maintain the specific entitlement program.

Who are the Purchasers?

Although any state agency may purchase social services, only Executive Branch agencies, commissions, departments, boards and other Executive Branch institutions are subject to the requirements outlined in this Handbook when purchasing social services. Agencies within the Executive Office of Health and Human Services account for over 80% of the expenditures in the state purchase-of-service system. Other Purchasing Agencies include the Executive Office of Elder Affairs, some public safety agencies, the Department of Education and a few other agencies scattered throughout the Executive Branch. See Appendix 5 for a complete list of state agencies currently engaged in the purchase of social services for clients. Throughout this Handbook, these purchasers will be referred to as "Purchasing Agencies".

Who are the Providers?

Approximately 1400 service provider agencies are currently involved in the state's purchase-of-service system. In addition, hundreds of individuals have contracts, worth approximately \$8 million annually, to provide direct client services such as counseling, outreach, and respite. Of the Provider agencies which hold POS contracts, approximately 97% are non-profit organizations, ranging in size from very small grass roots groups to \$100 million plus institutions. The types of organizations include multi-service agencies, family service agencies, day care centers, community health or mental health centers, special education schools, specialized service providers in areas such as substance abuse, elder services, or shelters, etc.

In 1992, the median POS Provider agency budget was under \$1 million; although in many service areas a few large provider organizations are predominant. Most POS Provider agencies are heavily reliant on state funding, with an average of two-thirds of their revenues coming from POS contracts and another substantial portion from Medicaid and other benefit programs.

E. OVERSIGHT OF THE PURCHASE-OF-SERVICE SYSTEM

A number of statutes, regulations and policies impact the purchase-of-service (POS) system and the procedures outlined in this Handbook. The Division of Purchased Services is the primary oversight agency for the POS system in Massachusetts and has promulgated separate regulations governing the procurement (808 CMR 2.00) and pricing (808 CMR 1.00) of POS programs. (See Appendix 3 for a copy of these regulations.) However, the Office of the Comptroller and the Rate Setting Commission have significant responsibilities and approval authority for certain aspects of the POS system. In addition, Secretariats and state Purchasing Agencies themselves may establish standards and requirements to facilitate compliance with DPS regulations and procedures and to respond to additional mandates or policies established at the Secretariat or agency level. Secretariats and Purchasing Agencies are also responsible for establishing and monitoring program standards and requirements. Certain programs are also subject to licensing and inspection requirements established by external agencies, such as the Department of Public Health's Division of Health Care Quality or the Office for Children. As you read this Handbook, be aware that not all the information about these external authorities is included, although references will often indicate how to obtain more information.

A brief summary of the roles of the other major oversight agencies is included below:

Office of the State Comptroller: This office is responsible for all accounting policies and practices of the Commonwealth, publication of the state's official financial reports, and oversight of certain management and expenditure functions. The Office of the Comptroller operates the state's accounting (called MMARS) and payroll systems. Most state agencies manage their financial accounting, budget, vendor payments, payroll and expense monitoring through the MMARS system. All purchase-of-service contracts and payments are recorded and tracked on

MMARS. The state Purchasing Agencies must file the original of each contract with the Office of the Comptroller, which has the responsibility of approving all contracts and authorizing payments to be made against them.

Executive Office for Administration and Finance (EOAF): This Secretariat oversees the fiscal and managerial activities of the executive branch of state government, with its primary mission being the maintenance of the state's financial stability through sound fiscal planning. EOAF consists of various offices, bureaus and departments responsible for financial operations, central services, human resources administration and administrative law services. Also in EOAF is the Department of Procurement and General Services, which contains the Division of Purchased Services (DPS), and is the department responsible for centralized procurement and/or oversight of the procurement process for goods and services.

Rate Setting Commission (RSC): This agency, which is in the Executive Office of Health and Human Services secretariat, is responsible for determination of prices or reimbursement caps for Medicaid reimbursable medical services and procedures, long term care, and some other types of health care. Proposed rates are subject to the public hearing process and must be approved by Medicaid before being issued as regulations filed with the Secretary of State. These rates apply to Medicaid and all other governmental purchasers of the same service. Thus the reimbursement rates or prices for purchase-of-service contracts are either established by RSC or by DPS.

Office of the Treasurer: The Treasurer's Office is responsible for a variety of critical financial functions, including receiving and managing all monies paid to the Commonwealth and processing and paying the Commonwealth's bills. Payments are scheduled by the Comptroller's Office through MMARS, but the actual checks are produced by the Treasurer's Office based on the data from MMARS.

State Auditor: The State Auditor is charged with improving the efficiency of state government by auditing the administration and expenditure of public funds and reporting the findings to the public. This office analyzes contract compliance of private vendors doing business with the Commonwealth. The scope of these audits extends beyond the accuracy of financial statements and includes an evaluation of overall management operations.

Secretariats: In the purchase-of-service system, the Secretariats of the various POS Purchasing Agencies have some specific responsibilities in addition to coordinating the activities of their agencies. Thus Secretariats are charged with establishing Provider prequalification standards and Affirmative Action Plan compliance, providing service authorizations for POS contracts (although this responsibility is generally delegated directly to the Purchasing Agency) and establishing billing procedures and standards. Secretariats may also, upon approval by DPS, develop general contract conditions that apply to all POS contracts issued by Purchasing Agencies within the Secretariat. The Secretariats currently involved in the POS system are the

Executive Office of Health and Human Services, the Executive Office of Elder Affairs, the Executive Office of Public Safety, the Executive Office of Administration and Finance, the Executive Office of Communities and Development, and the Executive Office of Education.

F. SUMMARY OF THE CONTRACTING CYCLE

The purchase-of-service system in Massachusetts is based on the concept of a five year contract. However, certain activities occur each year to align the contract with the Commonwealth's fiscal year budgeting and accounting system and to review the Provider's status as an eligible contractor.

Service Planning and Selection of Providers

At the beginning of the overall cycle is the state agency's planning and prioritization of service needs for its clients. Service delivery decisions are made on the basis of need, as determined by a variety of criteria, and anticipated funding. Actual funding is appropriated annually by the state Legislature for July 1 of the new fiscal year. However, agencies traditionally must plan for and procure services based on the Governor's budget request (called "House 1") which is normally submitted to the Legislature for consideration in January. Once a decision is made to purchase a certain program or service, the agency must choose one or more Providers with whom to contract for the service. This selection of a Provider occurs as a result of a formal procurement process, as outlined in Chapter II. Usually agencies must competitively procure services through the Request for Proposals (RFP) process.

Executing and Renewing a Contract

Once a Provider is selected, the state Purchasing Agency will negotiate the specific terms of the contract. Adjustments may be made to the contract throughout its duration either by amendment or at the time of the annual renewal to account for changes in funding level, clients, performance expectations, etc. A standard contract or renewal form is executed by both parties and the state agency commits annual funding for the contract in the state's financial management and accounting system, called MMARS. The Provider begins delivering the specified services to clients and provides regular documentation to the state Purchasing Agency in order to receive payments. The state Purchasing Agency monitors the services being performed under the contract and conducts interim evaluations at least annually.

A contract generally remains in effect for a period of five years. The following activities, however, occur on an annual basis as a condition of renewal of the contract:

- a) determination of the Provider's financial and administrative capacity to fulfill its contractual responsibilities and compliance with state and federal requirements;
- b) determination of the anticipated availability of funding for the renewal year;

- c) execution of a renewal agreement and commitment of funds in the MMARS system for the renewal year; and,
- d) if necessary, negotiation of any mutually agreed-upon adjustments to the terms of the contract.

Provider eligibility standards are reviewed in Chapter III, and procedures for pricing programs are discussed in Chapter IV of this Handbook. Contracting procedures are detailed in Chapters V, VI and VII. Chapter VIII covers contract monitoring, program evaluation and performance based contracting activities. Finally, Chapter IX covers contract system issues and procedures for other types of contractual agreements that may be encountered in the purchase-of-service system.

CHAPTER II: PROCUREMENT OF SERVICES

Service procurement is the process by which a state Purchasing Agency selects one or more Providers with whom to contract for delivering a specific service. In most cases, the procurement process need only be conducted once every five years. This chapter describes the various mechanisms permitted under the Division of Purchased Services' procurement regulations (808 CMR 2.00) for conducting the procurement process. Purchasing Agencies are required to adhere to the administrative requirements specified in this chapter unless the language explicitly provides discretion (as evidenced by the use of words such as "should", "may", or "recommend"). Providers and potential bidders are particularly encouraged to review sections B through D to gain an understanding of the process and expectations for competitive procurement.

A. PROCUREMENT CYCLE PLANS

Under Division of Purchased Services (DPS) regulations, state Purchasing Agencies are required to procure services at least once every five years and must establish a schedule for doing so. In accordance with 808 CMR 2.10, each Purchasing Agency must submit to DPS a five-year Competitive Procurement plan for its purchased programs and As-Needed Services. (See 808 CMR 2.02 in Appendix 3 for the definition of As-Needed Services.) State agencies are encouraged to stagger their procurement activity over the five years to prevent placing an undue burden on both Providers and state agency personnel in any one cycle. Thus, a Purchasing Agency may choose to put its counseling services out to bid in one year and day treatment programs in another year. This plan, and any modifications or updates deemed necessary, must be submitted to the Division of Purchased Services (DPS) for review. The Secretariat which oversees the Purchasing Agency may require that its Secretary approve the plan or any modifications prior to submission to DPS. DPS is responsible for issuing a comprehensive statewide procurement cycle plan to enable Providers, potential bidders, state agencies and other interested parties to be informed about annual competitive procurement activity and to plan accordingly. The most recently issued "Statewide Five-Year POS Procurement Plan" is contained in Appendix 6.

1. PURCHASING AGENCY SUBMISSION REQUIREMENTS

Each Purchasing Agency's Five-Year Competitive Procurement plan shall cover all services purchased under object codes M03, MM3 and M05, plus As-Needed Services of individuals under object codes M01 and MM1. The plan submitted by a Purchasing Agency must list each of its program types in one of the five years of the procurement cycle (where A = Year 1 and for the initial plan Year 1 represents contracts that begin in FY'93). All contracts for a particular program type should be procured in the same year, unless the Purchasing Agency can

justify a compelling need to do otherwise. In such cases, a written justification must accompany the plan submission. The plan shall list each program type or As-Needed Service by name and by program code, and should include the estimated number of contracts/agreements and total current funding for the program type. In addition, for As-Needed Services the plan shall also include an explanation of how the services meet the criteria specified in 808 CMR 2.02 (under definition of As-Needed Service) and the basis for the Purchasing Agency's utilization plan. Utilization of eligible Providers may be based on geographic distribution, client preference, the chronological order in which Providers were determined to be eligible, the relative cost of each Provider's services, written performance evaluations, any combination thereof, or any other factors appropriate to the program, service and/or client to be served.

Exceptions to the standard five-year cycle of procurement should also be noted and explained on the plan. Examples might include short-term federally funded pilot projects or the need to reconfigure the program after a certain period of time. If an entire program type falls under object code M06 as a formula procurement, the Purchasing Agency should note this separately, as the program is not subject to competitive procurement.

A Purchasing Agency may modify its five-year procurement cycle at any time under any of the following circumstances:

- a) A program type is no longer needed and/or funded and must therefore be dropped from the plan;
- b) A new program type is established and/or funded and must be added to the plan.
- c) Program restructuring has occurred of such a magnitude that existing contracts cannot be renegotiated without undermining the validity of the original procurement. In such cases the existing contracts shall be terminated without cause (or other applicable termination provision) and a new procurement shall be initiated.
- d) A legislative or other mandate impacts the agency's ability to adhere to its procurement cycle plan.

When a modification to the agency's procurement plan occurs, the Purchasing Agency shall submit an amended plan, subject to its Secretariat's approval, to the Division with an explanation of the changes. The Division will prepare a revised Statewide Five-Year POS Procurement Plan at least annually, which will be available to interested parties upon request and will also be included in any updated Handbook. Purchasing Agencies are also encouraged to communicate information about changes in their procurement cycles to their current Providers promptly.

2. OPERATION OF THE FIVE-YEAR CYCLE

Although the majority of contracts for a particular program type listed on the Statewide Five-Year POS Procurement Plan will be competitively procured in accordance with the established schedule, there will be exceptions. In this subsection we try to delineate the circumstances in

which such exceptions may occur and how the procurement schedule and contract duration are affected.

a. **Off-Cycle Bidding Policy**

The Division of Purchased Services has developed an off-cycle bidding policy which provides that any contract which is awarded pursuant to an RFP for a service with less than three years remaining on its initial bid cycle may be automatically extended for the period of time ending with the close of the following bid cycle (i.e., up to eight years). This policy is intended to avoid the administrative burdens and cost which Providers and Purchasing Agencies would encounter as a result of being involved in two complete procurement processes for the same service in a relatively short period of time. It should also be noted, that DPS regulation 808 CMR 2.11(3) requires a Purchasing Agency to provide notification to DPS of any off-cycle bidding activity.

On a practical level, the policy specifies that when a Purchasing Agency conducts a competitive procurement (i.e., issues an RFP) that does not coincide with the regular procurement schedule for that program type, then the resulting contract awards are made for the duration remaining on the procurement cycle for that program type. If the duration of the contracts awarded pursuant to an off-cycle RFP is for less than three years, then the newly awarded contracts will be exempt from the next regularly scheduled procurement and shall be issued new five-year contracts at that time. Thus, such contracts may extend for a maximum of eight years before being subject to procurement again. To determine whether the three year threshold is met, calculate the duration of the off-cycle award from its contract start date in Year 1 to the end of the regular bid cycle for that service. On the other hand, when an off-cycle RFP is issued early in the five year cycle for a particular program type so that the start date of the resulting contract(s) is more than three years before the cycle end date, then no such exemption is permitted and the off-cycle contracts will be subject to the next scheduled procurement.

The DPS Off-Cycle Bidding Policy applies only to competitive procurement through the RFP process; if a contract is non-competitively procured in mid cycle, then the contract can only be awarded for the time remaining in the cycle (or for a maximum of one year in the case of emergency sole sources) and is subject to new procurement at the start of the next cycle. Moreover, if the underlying five-year procurement schedule is modified, the determination of whether an extension will be granted to any off-cycle contract awards will be made by DPS on a case-by-case basis.

Examples of circumstances in which the Off-cycle Bidding Policy may be applied include: (a) when a Purchasing Agency must replace a Provider in mid-cycle; (b) when new funding is available to add Providers; or (c) when an emergency sole source award will expire and a new competitive procurement must be initiated.

b. **Cycle for As-Needed Services**

The primary procurement option for As-Needed Services is the Request for Qualifications (RFQ) procurement, which is open to new bidders for the duration of the procurement cycle. The off-cycle bidding policy described above does not apply to RFQ procurements and therefore no extensions can be granted. A Provider can be awarded an agreement for an As-Needed Service anytime during the five-year cycle period for that service after submitting a Statement of Qualifications and being determined eligible. Sole source awards are not permitted for services subject to an RFQ procurement. See Section E for a description of the RFQ procurement process.

c. **Other**

A Purchasing Agency may award a contract procured in accordance with the cycle schedule for less than the cycle allows with good cause and must notify the Provider in the award letter of the expected contract duration and the reasons therefor. Such a contract may be extended for the remainder of the five-year cycle or the duration of the program, whichever is less through the amendment process, if desired. Two examples of such circumstances include: start-up contracts, or contingent awards, for which the Provider's services need closer monitoring and the determination to continue the contract with the Provider is made on a yearly basis.

B. THE REQUEST FOR PROPOSALS (RFP) PROCUREMENT PROCESS

This section is designed to provide basic information on conducting a fair and equitable competitive procurement process. Purchasing Agencies and prospective bidders must adhere to the DPS standards outlined for each step in the RFP competitive procurement process outlined in this section. All required elements of the Request for Proposal document (as described in Section C) and the competitive procurement process are intended to protect the interests of the citizens of the Commonwealth, all potential bidders and the Purchasing Agencies. Since the competitive procurement process is only required once every five years, Purchasing Agencies should begin planning early and allow adequate time for developing a well thought out RFP and for conducting a deliberate procurement process.

1. PUBLIC NOTICE OF PROCUREMENT

The formal competitive procurement process begins with the public notice of a Purchasing Agency's intention to issue a Request for Proposals (RFP). DPS recommends that the initial public notice of an RFP occur at least six weeks prior to the due date for proposal submissions and at least four months prior to the proposed start date of the contract. All forms of public notice must include, at a minimum, the following information: the program type being bid, the date and location that the RFP will be available, and the proposal submission due date.

a. **Primary Notice**

Under 808 CMR 2.04, the only required public notice of an RFP is publication of a notice in the Goods & Services Bulletin at least five (5) days prior to the release date of the RFP. The Goods & Services Bulletin is a weekly publication in which all major available bidding and contracting opportunities with the Commonwealth are advertised. RFPs for purchase-of-service programs are contained in the 'Social and Rehabilitative Services' section of the Bulletin. The Goods & Services Bulletin is published weekly (Monday) by the Secretary of State and is available at local libraries and by subscription for a yearly fee of \$45.

ALL SOCIAL SERVICE PROVIDERS INTERESTED IN COMPETING FOR
PURCHASE-OF-SERVICE CONTRACTS SHOULD REVIEW THE BULLETIN
ON A WEEKLY BASIS.

For Subscription information, see Appendix 7 or contact:

Goods & Services Bulletin (ISSN 8750-8524)
State Bookstore
State House, Room 116
Boston, MA 02133

It is the responsibility of Purchasing Agencies to complete the GS-7 form (see Appendix 7 for a blank form) and submit it to the Secretary of State's Office, Regulations Division, Room 2A, One Ashburton Place, Boston, MA 02108 by the Wednesday prior to the desired publication date in the Goods & Services Bulletin. If the notice is not published when expected or is not in the correct section of the Goods & Services Bulletin, the Purchasing Agency must republish a notice and, if necessary, adjust timelines.

b. **Secondary Notice**

Purchasing Agencies may choose to provide secondary notices to prospective bidders in the form of posting in public locations, mailings and publications in newspapers. These forms of notice are not required and are at the discretion of the Purchasing Agency. Purchasing Agencies are encouraged to provide notice of all anticipated RFPs to current Providers of those services. If Purchasing Agencies proceed with secondary notices, they should develop and implement a policy regarding such methods of notice and advise all interested parties of this policy and practice.

2. **INTENT TO BID**

Purchasing Agencies may request that interested parties submit a written notification of their intent to submit a proposal in response to an RFP notice. A letter of intent may be submitted any time either during the public notice period or before the proposal due date. Submission of a letter of intent cannot be made a required condition for receiving an RFP nor is it a binding commitment on the part of a bidder to submit a proposal. The intent to bid is an option to

Purchasing Agencies to assist them in the planning and management of the RFP process and, therefore, Bidders are encouraged to participate in the process.

After an RFP has been released, a Purchasing Agency may need to provide additional information, in writing, to all prospective bidders. The RFP should clearly state that, in this case, any further communications about that specific RFP will ONLY be sent to Providers who submitted a letter of intent, attended the bidders' conference or for whom the Purchasing Agency has a record of having received a copy of the RFP. It is the responsibility of the Purchasing Agency to maintain a written record of these potential bidders to ensure fair and equitable treatment is accorded to all parties.

3. RELEASE OF THE RFP

Upon the release date of the RFP, as specified in the Goods & Services Bulletin, the Purchasing Agency shall make a copy of the RFP document available to all parties upon request. The RFP format and additional guidance regarding the development of an RFP can be found in Section C of this Chapter.

Purchasing Agencies may amend the RFP, if necessary, any time prior to the deadline for submitting proposals. In this case, the Purchasing Agency must provide written notification of the changes to all recipients of the RFP and provide full, equal and adequate opportunity to respond to the amended RFP. Purchasing Agencies shall determine if amendments to the RFP, or its timelines, are 'significant' because the changes might result in a broadened pool of potential bidders. Purchasing Agencies should weigh such factors as the size and scope of changes in the program type, geographic location, target population, timelines, funding, and/or number of units to be purchased in determining what is significant. If Purchasing Agencies determine that the changes are significant, then the agency must publish another notice in the Goods & Services Bulletin which informs potential bidders that the RFP and/or its timelines have been amended.

4. BIDDERS' CONFERENCE

The Purchasing Agency must hold a public bidders' conference soon after the release of the RFP but at least fifteen (15) calendar days prior to the proposal due date. The RFP must clearly state the date, time and place of the conference. The bidders' conference should allow an opportunity for all potential bidders to ask questions and receive information on both client related and programmatic issues as well as administrative and fiscal areas. Purchasing Agencies are required to establish procedures for ensuring that bidders have adequate and equal access to client specific information, either through the bidders' conference or other mechanisms.

5. PROPOSAL SUBMISSION REQUIREMENTS

The deadline for submitting proposals must be at least twenty (20) calendar days after the release date of the RFP. Purchasing Agencies are encouraged to allow adequate time for bidders to prepare and submit a comprehensive proposal. It is recommended that the submission of proposals occur at least two months prior to the desired contract start date. The RFP must clearly state the location where proposals must be submitted and the required date and time of submission. The Purchasing Agency is responsible for maintaining a record of the date and time of receipt of all proposal submissions. DPS encourages Purchasing Agencies to issue and bidders to request receipts for proposal submissions. The RFP should clearly state that partial submissions or proposals submitted after the designated due date or time will be determined to be non-responsive and will be disqualified.

Purchasing Agencies are permitted to request a maximum of one original and five copies of each proposal. It is the responsibility of the Purchasing Agency to reproduce the proposal if additional copies are needed for review purposes. Therefore, bidders must submit proposals in a format and quality that permits easy reproduction. The original submission must be signed by an authorized signatory for the bidding organization or there must be some evidence that the proposal is submitted with the knowledge and approval of the bidder's authorized signatory. Proposals must be submitted in a sealed package, which is clearly labeled on the outside with the relevant RFP number or name. All proposals and related documents submitted in response to an RFP are public documents, subject to the Massachusetts Freedom of Information Law (M.G.L. c.66, s.10 and c.4, s.7, cl.26).

The specifications and content of the proposal submitted by the prospective bidder, subject to those changes which occur as a result of negotiations after the contract (s) is awarded, will become the Attachment A of the contract. Therefore, the proposal should include only those statements which the bidder is prepared to agree to contractually. (See Section D for information about preparing a proposal.)

6. REVIEW AND EVALUATION PROCESS

The evaluation process conducted by Purchasing Agencies consists of several levels of review which must meet the standards set forth below.

a. Qualified Proposal

All submitted proposals must be reviewed by the Purchasing Agency to determine whether minimum submission requirements have been met. Proposals will be deemed to be "qualified" and forwarded for review to an evaluation committee if the following conditions are met:

- (1) Timely Submission - The proposal was received at the address designated in the RFP by the date and time specified and according to the instructions. Proposals mailed but not received at the designated address by the specified date and time cannot be considered as qualified.
- (2) Completeness of Submission - The proposal must include the required number of copies, completed Attachment A (narrative), Attachment B (budget) submission and Attachment C (Statement of Applicable Statutes) and any other minimum requirements and mandatory conditions as specified in the RFP.
- (3) Prequalification of Bidder - Bidder is in compliance with Prequalification submission requirements.

b. **Prequalified Bidder**

The Purchasing Agency shall determine whether a bidder possesses the financial and administrative capacity to fulfill its contractual obligations to the Commonwealth. The standard annual prequalification process established by each Secretariat is generally used for this purpose. More information about prequalification standards can be found in Chapter III. Bidders who satisfy minimum standards of financial and administrative capacity shall be deemed "prequalified." For new bidders, prequalification materials need only be completed and returned to the Purchasing Agency on or before the proposal due date in order to satisfy the prequalification submission requirement. However, Purchasing Agencies are responsible for determining the prequalification status for new bidders as soon as possible and that process must be completed before a new bidder can receive a contract award. Only prequalified bidders are eligible to receive an award.

c. **Proposal Evaluation Committee**

Every "qualified proposal" will be reviewed by a Proposal Evaluation Committee using specific evaluation criteria which have been detailed in the RFP. Each Purchasing Agency must establish an evaluation committee which meets the following minimum standards:

- (1) There will be a minimum of three (3) voting members.
- (2) Voting members may be state employees, advisory board members, clients, client representatives, and/or other individuals or groups determined by the Purchasing Agency.

- (3) All voting members will be free from conflict of interest. The private financial interests and personal relationships of evaluation committee members should not conflict with their obligations on an evaluation committee. Committee members should not be chosen if a conflict could result or if there would be an appearance of a conflict.

NOTE: All evaluation committee members are subject to the Massachusetts Conflict of Interest Law, M.G.L. c. 268A.

- (4) Consultants (as defined in 808 CMR 2.00) may serve as advisors to Purchasing Agencies in the evaluation process but may not serve as voting members on an evaluation committee or otherwise represent or act on behalf of the Purchasing Agency.

The duties of the evaluation committee are to review and prioritize all qualified proposals in accordance with the criteria specified in the RFP and to submit their results in writing, along with any recommendations and relevant explanations, to the Awarding Authority who renders the final award decision. All evaluation committee members should receive oral and/or written training to understand the evaluation criteria and process. Committee members should be advised that the evaluation of a proposal is against the specifications of the RFP and the evaluation criteria. Comparisons between or among proposals are not appropriate.

d. **Proposal Evaluation Process**

The Purchasing Agency must include the evaluation tool, which specifies the criteria and the relative importance (weight) assigned to various components of the proposal, in the RFP. Bidders are encouraged to review the evaluation questions carefully to ensure that their proposal adequately addresses all areas. The RFP must clearly specify the method or process by which proposals will be evaluated. At any time during the proposal review process, the Purchasing Agency may invite or require any or all bidders to make oral presentations of written proposals, answer questions, and for purposes of clarification only, submit additional information. Purchasing Agencies are encouraged to extend the opportunity, whenever possible, for an oral presentation to all bidders who submit a qualified proposal. Purchasing Agencies must ensure that the evaluation committee is allowed sufficient time in which to conduct an adequate review of all proposal submissions.

The Evaluation Committee may use a number of sources of information in evaluating a proposal, including but not limited to:

- * the written proposal
- * oral presentation
- * verbal and written responses to questions asked by the committee
- * the bidder's history and/or experience in serving this or a similar population
- * the bidder's past performance as a Provider

- * client/consumer satisfaction surveys
- * reviews of current programs operated by the bidder
- * materials submitted for prequalification purposes
- * quality assurance and/or licensing surveys

If such other criteria are to be considered in the proposal evaluation process, in addition to those identified in the evaluation tool, those factors must be clearly identified in the RFP. To the extent possible, these other factors should be incorporated directly into the evaluation tool. A written report must be submitted by the evaluation committee to the awarding authority, listing the proposal scores and identifying any questions or concerns noted by the committee to be significant and worthy of consideration in rendering a final award decision. If a numerical scoring system is not the basis for the evaluation tool utilized by the committee, then the relative weight or ranking of the proposals will be reflected in the report to the awarding authority.

Proposal submissions, review scores and rating sheets, a list of evaluation committee members, a ranked list of proposals and any written report summarizing the activities of the committee must be available for public inspection after contracts have been awarded and must be kept on file by the Purchasing Agency for the period specified by the Records Conservation Board.

7. INCENTIVES FOR MINORITY PROVIDERS

Purchasing Agencies must reference the minority business purchasing policies of the Commonwealth, as evidenced by Executive Order 237 and 801 CMR 11.00, in each RFP. State agencies are required to take affirmative steps to increase minority business participation in the competitive procurement process. In general, a minority Provider is defined as a private organization which is owned or controlled by members of a minority group. In accordance with Executive Order 237, the term "minority" is defined to include Black, Western Hemisphere Hispanic, Asian, Native American, or Cape Verdean. In the case of a for-profit business, minority groups must have a 51 % or more ownership interest in the business. In the case of a not-for-profit organization, 51 % or more of the board of directors must be members of a minority group.

Purchasing Agencies should include in the RFP a definition of Minority Business Enterprise (MBE), specify the documentation required for bidders to identify themselves as certified with the State Office of Minority and Women Business Assistance (SOMWBA), and include a statement of the positive criteria that will be used in evaluating proposals submitted by SOMWBA certified agencies. If the evaluation tool is based on a point scoring system, certified Minority Business Enterprises shall be awarded, at a minimum, an additional 5 % of the total available points to their total scores. Evaluation tools which utilize alternative scoring systems must identify a procedure by which Minority Business Enterprises receive positive credit or weight in the evaluation process.

Additional information on the certification criteria and process may be obtained by contacting the State Office of Minority and Women Business Assistance at (617) 727-8692. SOMWBA publishes two separate directories, one which lists Certified Minority Nonprofit Organizations and a second covering for-profit businesses.

8. REJECTION OF ALL PROPOSALS

The Purchasing Agency may cancel the procurement or reject all proposals at any time during the process when it determines that such action is in the best interest of the Commonwealth. All bidders must be provided with a written notification of such action and the reason(s) for the cancellation.

9. COMPETITIVE NEGOTIATION OF PROPOSALS

Following the due date for proposal submissions, the Purchasing Agency may choose to engage in competitive negotiation of proposals with all bidders. Bidders must be notified in writing of the Purchasing Agency's intent to negotiate, the revisions to the specifications in the RFP, if any, and the opening and closing dates for the negotiations. Bidders should be allowed at least five (5) working days after the close of negotiations to submit revised proposals. The Purchasing Agency should evaluate and rate responses consistent with the evaluation criteria of the original RFP unless modified through the competitive negotiation process.

The Purchasing Agency may not modify the specifications stated in the RFP to the extent that prospective bidders, who did not respond to the original RFP, might have responded to the revised RFP. Purchasing Agencies are responsible for making this determination. Subsection B.3 of this chapter provides further guidance on the factors to consider in making this determination.

10. AWARD AND NOTIFICATION

Upon completion of the evaluation process, the Purchasing Agency shall establish a prioritized list of proposals. The Purchasing Agency shall make an award to the prequalified Bidder(s) which submit(s) a qualified Proposal which is determined by the Purchasing Agency to be responsive to the RFP and most advantageous to the Commonwealth. An RFP may result in the awarding of more than one contract. In this case, the criteria to be used in determining the funding and capacity level for each award must be clearly specified in the RFP document. If a Purchasing Agency awards a contract to other than the highest ranked or scored proposal, the basis for that decision must be available, in writing, to all interested parties upon request. Each bidder must be notified in writing of the status of its proposal. It is recommended that award decisions be announced no later than one month prior to the desired contract start date.

In the event that the Purchasing Agency, negotiating in good faith, fails within a reasonable amount of time to reach agreement with the bidder first awarded the contract, it may disqualify that bidder and award the contract to the next prioritized bidder. Contract negotiations are limited to those terms and conditions that are not specifically addressed in the RFP or in the Bidder's written proposal and/or to matters which do not significantly alter the terms of the written proposal.

If the contract(s) to be awarded will be supported with federal grant funding and the specifics of that funding information are known to the Purchasing Agency at the time of the contract(s) award, the Purchasing Agency must specify the source and federal CFDA (Catalogue of Federal Domestic Assistance) number in the award letter. Any other conditions upon which the contract award is being based must also be clearly stated in the award letter.

A service contract is not legally enforceable without a current, signed Master Agreement on file with the state Comptroller. The Master Agreement contains the Provider's certification that it will abide by the standard conditions applicable to all purchase-of-service contracts. These conditions include provisions on nondiscrimination in hiring and service delivery, avoidance of conflict of interest, compliance with confidentiality regulations, affirmative action policies and recently enacted state requirements relative to the provision of child care, among others. Additional information about the Master Agreement can be found in Chapter III.

11. DEBRIEFING

Upon notification of the Purchasing Agency's decision, any bidder shall be given an opportunity for a debriefing upon request. A debriefing meeting provides the bidder with the opportunity to discuss the basis for the award decision with the Purchasing Agency, to examine all proposals, rating sheets, materials and reports completed by the evaluation committee and the list of awards. A request for debriefing must be received by the Purchasing Agency within fourteen (14) calendar days of the postmark of the award decision notification to the bidder. A debriefing meeting must be held within fourteen (14) calendar days of the request unless both parties, the Purchasing Agency and the bidder, agree to an extension of this timeline. A bidder who is aggrieved by the decision of the awarding authority must participate in the debriefing as a prerequisite to filing a request for an Administrative Appeal to the Agency Head, pursuant to 808 CMR 2.04(12).

Purchasing Agencies must develop and implement a procedure for handling debriefings in a timely, objective and equitable manner. Purchasing Agency specific information regarding the debriefing procedures must be stated in the RFP.

12. ADMINISTRATIVE APPEALS

a. Appeal to the Purchasing Agency

Only prequalified bidders, who remain aggrieved with the decision of the awarding authority after having completed the debriefing, may appeal the decision to the Agency Head. Appeals must be submitted in writing within fourteen (14) calendar days of the debriefing meeting. An appeal should be based on one or more of the following grounds:

- 1) The competitive bidding practices of the Purchasing Agency failed to comply with applicable regulations and guidelines.
- 2) The information available to the bidders, both in the RFP document and outside of the RFP, varied sufficiently to result in an unfair competitive process.
- 3) The scoring procedure failed to reflect the reasonable examination by the evaluation committee of the contents of the proposals submitted by competing bidders.

An aggrieved bidder must state in its letter to the Purchasing Agency the basis for its appeal in enough detail to provide the Purchasing Agency adequate information with which to assess the basis of the appeal request. Appeals which do not address one or more of the above- referenced bases for appeal may be judged to be without merit by the Purchasing Agency and may not be heard. No later than twenty-one (21) calendar days after receipt of an appeal request, the Purchasing Agency must acknowledge receipt of the appeal and schedule a future hearing date or notify the bidder that the appeal has been deemed without merit and will not be heard.

Administrative appeals under 808 CMR 2.04(12) are not subject to the formal legal procedures specified in M.G.L. c.30A, ss. 10 and 11, however, DPS does encourage Purchasing Agencies to provide an opportunity for a hearing or face-to-face meeting between the parties, when appropriate. At the Purchasing Agency level, the formality of the appeal process varies and the Provider should address questions relative to the process directly to the Purchasing Agency. In many instances, the Purchasing Agency will describe the appeal process in detail in the RFP.

b. Appeal to the Division of Purchased Services

Any prequalified bidder aggrieved by a decision of the Purchasing Agency Head made on appeal which concerns the interpretation or application of any published policy or procedure may appeal the decision further to the Assistant Commissioner of the Division of Purchased Services. Appeals to the Assistant Commissioner must be submitted in writing postmarked or hand-delivered within fourteen (14) calendar days of postmark on the notice of the Agency Head's decision on the original appeal. Appeal requests must specify in sufficient detail the basis for the appeal.

While what constitutes sufficient detail varies depending on the particular case, "sufficient detail" will generally include a description of the published policy or procedure which was applied and forms the basis for the bidder's claim that it has been aggrieved, a description of how the interpretation affected the bidder and a statement of when the Agency Head's decision was postmarked. In addition, the following would assist the Division in making an initial determination relative to the appeal: a copy of the Agency Head's decision and copies of any documents or portions of documents which form the basis of the appeal which were issued by the Purchasing Agency and, therefore, might not be readily available to the Division.

At the level of the Division of Purchased Services, in most instances, aggrieved bidders will be invited to present their appeal in person in a meeting with the Assistant Commissioner, or designee. After meeting with the bidder, the Assistant Commissioner, or designee, will invite the Purchasing Agency to a meeting to discuss the appeal. It is also current Division practice to allow aggrieved bidders and Purchasing Agencies to introduce additional material relative to the appeal prior to and at the meeting with the Assistant Commissioner, or designee.

c. Appeal Decisions

All decisions of the Agency Head or the Assistant Commissioner shall be rendered, in writing, setting forth the grounds for the decision within ninety (90) calendar days of receipt of an appeal request which satisfies the requirements described above. Pending appeals at either the Agency Head or the Assistant Commissioner level shall not prohibit the Purchasing Agency from proceeding with procurement activities or executing contract agreements.

C. THE RFP FORMAT

Beginning in FY'92, the Division of Purchased Services initiated discussions with both Purchasing Agencies and Providers to identify weaknesses in the existing competitive procurement process and to suggest improvements. A review of the procurement process indicated that the RFP document and the proposals submitted in response to the RFP were duplicative, excessively reiterative, and input-specific. As a result, the Division issued Competitive Procurement Guidelines in January 1992 for FY'93, which presented a framework for a revised RFP format that attempted to simplify the RFP structure, focus on the individuals requiring services, and develop measurable outcomes and performance standards for each program.

The Division also acknowledged that the guidelines would require refinement and clarification and committed itself to the publication of this comprehensive Contracting Handbook in the fall of 1992. With a great deal of assistance from a work group of both Providers and Purchasing Agencies, the Division has further reorganized and simplified the RFP format, as described below:

1. OVERVIEW

Basically, an RFP consists of four main parts:

- *Program Specifications
- *Evaluation Criteria and Process
- *Proposal Instructions and Forms (Attachments A, B, and C)
- *Procurement and Contract Information

The most recent revisions to the RFP document, especially the format for the Program Specifications, reinforce many of the Division's priorities, including performance-based contracting, and encourages flexibility and creativity from prospective bidders. Subsection C.2 provides details on how the RFP is to be formulated and organized to capture the major elements of the program being procured by the Purchasing Agency.

It is critical that Purchasing Agencies structure their evaluation tools to conform to the required RFP format. The evaluation tool provides guidance to prospective bidders on which elements will be evaluated and the relative weight or importance of each section.

In addition, the Attachment A form on which bidders will respond corresponds to the latest format for Program Specifications. The bidder's proposal consists of the Attachment A: Program Narrative, Attachment B: Budget, Attachment C: Required Reports, and any other submission requirements specified in the RFP. Purchasing Agencies must include instructions and the standard blank forms in the application section of the RFP document. Purchasing Agencies may not alter the Standard Attachment A and B without prior written approval from the Division of Purchased Services.

The section which contains the required information on the procurement process and on contracting policies and procedures is fairly standard across all RFP's.

A sample RFP outline, which includes all the elements described above, is set forth below for reference:

- A. INTRODUCTION: Statement of purpose of the RFP
Brief history of the program
- B. PROCUREMENT AND CONTRACT ADMINISTRATION
- C. PROGRAM SPECIFICATIONS
 - 1A: Program Narrative
 - 1B: Service Elements/Service Delivery
 - II: Client Profile
 - III: Desired Program Outcomes/Program Assessment

- IV: Provider Profile
- V: General Program Specifications/Other

D. PROPOSAL APPLICATION SECTION

- Instructions
- Proposal Forms (Attachment A)
- Budget Forms (Attachment B)
- Attachment C

- E. EVALUATION: Description of the Process
Evaluation Tool

F. APPENDICES - (optional)

This sample outline need not be followed, however, the four main RFP elements described in the overview and the rest of this section must be included in all Request for Proposals for purchase-of-service programs.

2. PROGRAM SPECIFICATIONS SECTION OF THE RFP

The Program Specifications portion of the RFP is the heart of the document because it is dedicated to describing the services the Purchasing Agency wants to buy, the people to be served, and the desired objectives to be achieved. The Program Specifications consists of three (3) major programmatic sections, a provider profile, and a general specifications section. The program-focused sections are:

SECTION I: PROGRAM NARRATIVE/SERVICE ELEMENTS

SECTION II: CLIENT PROFILE

SECTION III: DESIRED PROGRAM OUTCOMES/PROGRAM ASSESSMENT

These three sections of the Program Specifications should provide the prospective bidder with all the information necessary to formulate a response to the program-specific elements in the RFP.

This part of the RFP also includes a Section IV, which is non-programmatic and Provider agency focused. The intent of this section is to allow a bidder to create its own standard "Provider Profile" which categorizes most of the administrative elements that are usually requested by Purchasing Agencies. This will provide an opportunity for prospective bidders to develop a "boilerplate" which, with minor modifications, can be tailored to each RFP.

Section V is also available for Purchasing Agencies to highlight any requirements that are not logically included in any other section of the Program Specifications part of the RFP.

In the following pages, more specific guidance is provided on each section of the Program Specifications portion of the RFP. The topics listed in each section represent "suggested" areas for inclusion. Each Purchasing Agency will determine the specific information to be requested from bidders in each section when writing the RFP document, and this information will vary depending on the specific services being procured.

SECTION I (IA and IB): PROGRAM NARRATIVE/SERVICE ELEMENTS

In this part of the Program Specifications, the Purchasing Agency will provide an overview of the services that are being requested and will set forth the general requirements or expectations for the particular type of program being bid. This section consists of two subsections: SECTION IA presents the standard service description, in other words, will answer, "What is the Purchasing Agency seeking to procure?"; and SECTION IB addresses the specific service elements and asks "How will the program work and services be delivered?".

SECTION IA : PROGRAM NARRATIVE

When drafting the RFP document, Purchasing Agencies must determine what specific information is to be requested from bidders. Specific areas addressed in SECTION IA may include, but are not limited to, the following:

- * General Programmatic Overview of the Services: The Purchasing Agency will provide a summary of the types of activities expected.
- * The Purchasing Agency may include a statement of the Purchasing Agency's program philosophy, values and principles and may request specific information from the bidder regarding its philosophy in providing this specific service type and how it fits into the bidder's overall mission.
- * Program components: The Purchasing Agency may identify the major components of the service that it expects the bidder's program to include and must specify the required elements without which the model would be incomplete or unacceptable; for example, outreach services, 24-hour crisis backup, needs assessment, etc.
- * The Purchasing Agency may request information regarding the bidder's experience in providing this type of program or, if no history, information demonstrating its ability to do so.

SECTION IB : SERVICE ELEMENTS AND SERVICE DELIVERY

This section will articulate, in greater detail, what the Purchasing Agency wants to know about the specific aspects of how the general services requested in SECTION IA will be provided. It will also ask what resources will be available to meet the Performance Based Objectives identified in SECTION III. The Purchasing Agency needs to structure Section IB to ensure that the bidder's response provides enough specific information for the Purchasing Agency to assess the appropriateness and adequacy of resources being proposed to meet the program objectives. The bidder's response to this section should also correspond closely with the cost information reflected in the Attachment B budget pages. The information requested of the prospective bidder may include, but is not limited to, the following areas:

- * Hours of operation or availability of services.
- * Staffing pattern, shift schedule, staff:client ratios, caseload or other workload measures, staff credentials and qualifications, job descriptions, staff supervision, special qualifications of staff (bilingual capabilities, American Sign Language, etc.).
- * Occupancy requirements, where the program is located, special features or requirements (for example, numbers of individuals per bedroom), compliance with building codes or other regulatory requirements.
- * Any specialized equipment, supplies, training, consultation or any specialized resources identified by either the Purchasing Agency or the prospective bidder as necessary to the program.
- * Program Support: any administrative costs which are directly associated with the specific program being bid and not allocated across programs or contained in agency administration.
- * Program-specific intake and discharge procedures, admissions and discharge criteria, open or closed referral process.
- * Linkages, affiliation agreements and subcontract arrangements necessary to provide the service.
- * Provision of emergency backup and coverage.
- * If a new program: start-up timelines, implementation plan for hiring of staff, location of space, etc.

Any information that the Purchasing Agency presents about its expectations for service delivery in Section IB of the Program Specifications in the RFP, along with the client profile,

should be sufficient for bidders to conceptualize and respond to the programmatic elements of the RFP. Required elements for this section should be set forth in a way that encourages creativity from bidders. An RFP which requests the submission of a proposed staffing pattern and schedule to adequately address the skill level and self-preservation needs of the individuals allows more creativity and flexibility than an RFP which specifies a 2:4 staffing ratio. Section IA and IB should allow bidders the flexibility, where appropriate, to propose creative, alternative service models without fear of automatic exclusion from the process.

SECTION II : CLIENT PROFILE

In this section the Purchasing Agency will provide an overview of the needs and characteristics of the target population to be served: age, gender, ethnicity, geographic origin, impairment and/or circumstances leading up to the need for services. Information may be both client-specific, gathered from ISPs, IEPs, ITPs, etc., or program-specific, such as characteristics that are representative of the potential referral pool. This section should identify any priority populations to be served and provide insight into the clients' strengths, abilities and choices. The Purchasing Agency will specify any client financial eligibility requirements and relevant criteria and guidelines in this section. This section should also include information to potential bidders on who should be contacted to obtain additional client-specific information. Purchasing Agencies will also specify what information they are seeking from prospective bidders in this section, such as:

- * A summary of client characteristics and the bidders' recommendations for specific professional expertise and staffing.
- * A discussion of the bidders' expertise and experience in serving a similar population.
- * A bidders' assessment of specialized resources needed to serve the specific clients, such as cultural/linguistic factors, socioeconomic characteristics, geographic considerations, etc.

SECTION III : DESIRED PROGRAM OUTCOMES/PROGRAM ASSESSMENT

This section lies at the core of the program specifications portion of the RFP format. One way for the Purchasing Agency to articulate its expectations for the program in SECTION III, is to ask itself the following questions and translate the answers into client-based, quantifiable objectives:

What am I seeking to purchase?

How will I know when those services are successfully delivered?

What mechanism will be used for evaluating performance?

How will the Purchasing Agency and the successful bidder use the information to modify the program and improve the quality of services to clients?

In Section III of the Program Specifications, Purchasing Agencies articulate what client outcomes the Purchasing Agency wants to achieve by purchasing the service. The intended results or outcomes for service delivery may be specific to the individual clients or to the program in general. The objectives should be client-based, realistic and measurable. The Purchasing Agency will specify the desired outcomes and allow the bidders the flexibility to propose a program that, they believe, can best achieve those measurable outcomes. (Additional information on Performance-Based Contracting can be found in Chapter VIII.)

Purchasing Agencies should be realistic in establishing the number of achievable outcomes and corresponding reporting requirements. DPS recommends no more than seven (7) objectives per program. The RFP should specify the basis by which outcome measures will be evaluated (frequency of reporting requirements, method of reporting on the objectives, to whom, any required meeting structure between Purchasing Agency and Provider, etc.). The RFP document can either state objectives in terms of specific outcomes or in more general terms, with the specifics to be negotiated at the time of contract award. There may be certain program codes that present formidable challenges in identifying quantifiable, meaningful objectives. DPS staff are available to assist Purchasing Agencies with the task of identifying program objectives and any other areas related to the competitive procurement process.

Section III combines the concept of quantifying and measuring quality with the area of program evaluation and assessment. This section should also provide details on the other expectations or requirements for evaluating program quality. These may include licensing, quality assurance, formal accreditation, internal or external evaluation procedures, independent professional review, client/consumer satisfaction surveys and any other requirements. To avoid duplication and redundancy across Purchasing Agencies, DPS encourages the acceptance, when appropriate, of other licensing, accreditation and/or certification standards performed by either national or state agencies. (Commission on Accreditation of Rehabilitation Facilities {CARF}, Office for Children or Department of Mental Retardation licensing standards and Joint Commission on Accreditation of Hospitals {JCAHO} are some examples of possible acceptable standards.)

SECTION IV : PROVIDER PROFILE

This section is intended to address all areas that are specific to the bidder organization and are essentially non-programmatic in nature. This portion of the RFP should include all statements of expectations and requests for information that relate primarily to the general practices and capacity of the bidder's organization. If all Purchasing Agencies apply these criteria consistently, a bidder could begin to develop a standard "Provider Profile" which would allow it to respond to a variety of RFPs from different Purchasing Agencies with only minor modifications to its Provider Profile. In this section, Purchasing Agencies should address all areas that are important to them in terms of evaluating the bidders' ability to provide administrative support to the service being procured. This section could request information in the following areas:

- * Provider agency philosophy, principles and history. This differs from information which might be requested in SECTION IA which is program specific.
- * Billing policies of the Provider - A statement of compliance with the billing requirements of the Purchasing Agency or a statement of the bidders' established policies regarding absenteeism, invoicing and documentation.
- * Provider personnel policies - description of the personnel, recruitment and staff development, and affirmative action policies and procedures.
- * Provider training policy - description of the requirements and practices.
- * Provider requirements and practices concerning client record keeping, client rights, incident reports, investigations, reporting of client abuse and neglect, human rights committees, etc.
- * Sources of income - Bidders' policy of charging a sliding fee for service and procedures for collection, experience in maximizing third-party collections, use of client funds and other program revenues, program offsets. Is the Provider eligible for Medicaid reimbursement?
- * Inventory requirements, Internal control systems.
- * MBE status (if applicable).
- * Organizational chart - Administrative structure of the Provider agency.
- * Job descriptions for Provider agency administrative staff (Executive Director, Financial Officer, etc).
- * Any generic affiliations, Provider agency accreditations, licenses, if applicable.

SECTION V - GENERAL PROGRAM SPECIFICATIONS/OTHER

This section is available for Purchasing Agencies to highlight or request documentation that is either specific to their Secretariat/Agency or is not requested in other sections of the RFP. This section may include information regarding available funding by stating a proposed maximum obligation, range of maximum obligation or no maximum obligation at all. In this section, the Purchasing Agency may reference specific fiscal requirements (unit rate, cost reimbursement, accommodations rate, class rate, component pricing), agency or federal requirements that may be forthcoming, specific instructions for completing the proposal response to the RFP, etc. Purchasing Agencies must state in the RFP, when applicable, that all or a portion of the program will be federally funded.

3. EVALUATION CRITERIA AND PROCESS

This section of the RFP must explain the process by which proposals will be evaluated. This will include an explanation of the evaluation tool, any other information and criteria which will be used in evaluating proposals, including a discussion of incentives for Minority Providers, oral presentations and the process for reporting the results and recommendations of the evaluation committee. This section should also briefly describe or make reference to the selection and award process for the program being procured. Specific guidance on the elements of the evaluation process is found in Chapter II, Section B.6.

4. REQUIRED STANDARD INFORMATION IN AN RFP

In addition to the substantive elements included in the RFP document, the Purchasing Agency is required to provide all of the information that is referenced below. This may be accomplished by including the information in the RFP itself, and/or by referencing this Handbook and ensuring all bidders have access to the Handbook. A sample "boilerplate" of the language required for inclusion in all purchase-of-service RFPs has been developed by the Division of Purchased Services and is available to Purchasing Agencies upon request. Purchasing Agencies are encouraged to adopt this boilerplate or adapt the format to one that is more compatible with agency practice as long as the required information appears in the agency boilerplate.

1) GENERAL PROCUREMENT INFORMATION

This section must include information on the agency procurement process including the timetable, proposal submission requirements, component pricing requirements, contact persons for technical assistance, award, debriefing and appeals procedures, relevant agency policies, etc.

2) CONTRACTING POLICIES

This section must include information on statewide and agency specific requirements regarding subcontracting, affirmative action, minority business purchasing requirements, contract authorization (required authorization from the Comptroller, subject to availability of funds), payment options (regular payment and ready payment) and any other agency specific contracting policies.

3) MINIMUM SUBMISSION REQUIREMENTS

In this section the Purchasing Agency must specify the submissions necessary for a proposal to be deemed "qualified" and forwarded to an evaluation committee for review. Minimum elements of ALL proposal submissions include: Cover page; Attachment A: Program Description; Attachment B: Fiscal Conditions; Attachment C: Reports and Applicable Statutes, Regulations, and Policies; bidder's agency and/or program organizational chart; job descriptions for program staff positions; proof of license, if applicable; and SOMWBA certification, if applicable.

4) PROPOSAL INSTRUCTIONS AND FORMS

This section must provide specific directions to bidders on how to prepare the proposal and must contain all required forms and instructions for the Program Narrative, Budget and Required Reports.

D. THE PROPOSAL FORMAT

The format in which bidders will respond to an RFP will not change significantly from past years' practice. Bidders will continue to submit their proposals on the standard program description (Attachment A) and program budget (Attachment B) forms. The Division of Purchased Services has developed the Attachment A forms to correspond to the Program Specifications of the RFP format.

Prospective bidders will be expected to set forth all relevant programming and fiscal information in support of their belief that their proposal best meets the needs of the population to be served. The specifications and contents of the proposals submitted will become a part of any contract that is awarded. Therefore, bidders should include only those statements to which they are prepared to agree contractually.

General advice to bidders on preparing a responsive proposal follows.

Guidance to Bidders on Preparing a Proposal

General Rules:

- * **Be Informed!** It is important to know when a Purchasing Agency will be issuing RFPs. While the Statewide Five-year POS Procurement Plan in Appendix 6 provides a yearly schedule, it is important to check the Goods & Services Bulletin regularly.
- * **Research the Funding Source.** Understand the philosophy, values and mission of the Purchasing Agency seeking to procure services.
- * **Study this Handbook Carefully!** It is essential to understand the competitive procurement process and the RFP format.
- * **Ask Questions.** The Bidders' Conference provides an excellent opportunity for information on the RFP. Technical assistance should be available at the Bidders' Conference and throughout the proposal preparation phase from the Purchasing Agency.

Assess Your Ability to Respond

- * Read the RFP Thoughtfully. Is your organization in a position, both fiscally and programmatically, to submit a response to the RFP? Do you need to collaborate or develop a specific expertise to operate the type of program being procured? Is there sufficient time to prepare a good proposal?
- * Minimum Requirements. Does your organization meet all minimum requirements or eligibility standards, such as licensing, stated in the RFP?

Proposal Preparation

- * RFP Requirements. Develop a framework and outline for responding to all issues raised in the RFP. Study the evaluation tool carefully to see what the Purchasing Agency is looking for in a good proposal.
- * Provider Profile. Develop a generic Profile that provides a comprehensive overview of your organization. Gather all the information related to this profile, such as personnel policies and community statistics, in one place. This profile may need to be modified to respond to specific issues raised in an RFP. Develop two types of letters or documentation in support of a proposal: affiliation agreements and letters of support. Affiliation agreements should be updated yearly. Letters of support should be current and relevant and should specifically support your organization's ability to provide the requested service.
- * Needs Assessment. It may be necessary to conduct a needs assessment for the service being procured or to research available data to document the demand for services.

Writing the Proposal

- * Highlight the strengths of your organization and your ability to provide this service. What does your proposal offer that is unique and worthy of special attention?
- * Proposal Content and Style. Think through 'how' your proposed program will work and present how your approach creatively addresses the needs of the clients/consumers. Write in a way that is clear and easily understood by both professionals and private citizens; Purchasing Agencies often have family members, clients and interested parties participate in their evaluation process. Avoid jargon. Be neat, logical and concise.
- * Goals and Objectives. Identify realistic and quantifiable objectives which demonstrate an understanding of the population to be served, based on the expectations in the RFP and your own knowledge of the needs. Make sure the proposal is internally consistent; goals and objectives should be supported by a realistic and clinically appropriate staffing pattern, adequate and competitive budget, and an adequate agency administrative capability, etc. It will not be sufficient to identify quantifiable objectives if the resources or program design don't support your agency's ability to achieve those objectives.

- * Evaluation/Assessment. Describe how you will track your progress in meeting objectives. This is very important and can make your proposal stand out from others.
- * Budget. The proposed budget is also extremely important and you should devote time to thinking through and preparing the budget. The Purchasing Agency should be able to easily cross-reference between what appears on the budget pages and what resources are identified for the program model. Make sure you:
 - a) include only those components needed for the program as described in the narrative (Attachment A);
 - b) have double checked the addition;
 - c) keep your costs competitive, if they are high make sure there is good justification for that in the narrative;
 - d) prepare a budget that is within the fiscal guidelines of the RFP;
 - e) keep the budget simple (use whole numbers, etc.);
 - f) use only program component titles as they appear in the current Component Price Catalogue and follow the prescribed budget format; and
 - g) use service units that make sense and are consistent with reporting and program requirements. If an RFP requires that the budget be developed using component pricing principles, make sure that your submission is in compliance with these requirements. (See Chapter IV for more information on Component Pricing.)

Proposal Submission and Oral Presentations

- * Submission Requirements. Double check that the proposal addresses all minimum submission requirements specified in the RFP, especially regarding original signatures, number of copies required, time and date of proposal submission, any required attachments, etc. Plan ahead and allow extra time to ensure your proposal is submitted to the correct location by the stated deadline.
- * Oral presentations. Many Purchasing Agencies will invite some or all bidders to present their proposals and/or answer questions for an evaluation committee as part of the proposal review process. In many cases, time lines for evaluating proposals are extremely short. Therefore, you should anticipate a request to appear and should prepare in advance. Consider what areas (clinical, fiscal, administrative) of your agency should be represented. Be on time for the presentation. Additional information on oral presentations will be available from the Purchasing Agency.

E. THE REQUEST FOR QUALIFICATIONS (RFQ) PROCUREMENT PROCESS
(INFORMATION TO BE ADDED IN AN UPDATE TO THE HANDBOOK)

F. NONCOMPETITIVE PROCUREMENT

The selection of Providers to deliver client services by methods other than the competitive procedures outlined in sections B and E of this chapter are permitted under certain circumstances, as outlined below:

1. NONCOMPETITIVE OR 'SOLE SOURCE' PROCUREMENT

A Purchasing Agency may award a contract to a Provider if one or more of the conditions specified in 808 CMR 2.06(1)(a) through (e) are satisfied. In all cases of noncompetitive procurement, the Purchasing Agency must prepare and keep on file a written justification which sets forth in detail the specific grounds for applying 808 CMR 2.06(1) to the award of a contract on a noncompetitive or 'sole source' basis. Explicit instructions for sole source justification requirements and procedures can be found in the regulations under section 808 CMR 2.06(2) - see Appendix 3.

Purchasing Agencies are also required to prepare a list of all noncompetitive procurements approved by the agency every quarter. These reports must be submitted to the Division of Purchased Services within ten days of the end of the quarter (i.e., July 10, October 10, January 10 and April 10). This quarterly summary shall include, at a minimum, the following information for each approval: date approved, program type, Provider name, maximum obligation, duration of the contract, and the specific noncompetitive provision that was applied (i.e., 2.06 (a), (b), (c), (d), or (e)). If a sole source award was made for an existing contract, the report must also indicate when the last procurement occurred and the type of procurement (competitive or noncompetitive). The Division will review all such reports and may request copies of the actual sole source justifications from time to time or may conduct such other reviews as are deemed appropriate.

A brief description of the conditions under which a sole source procurement is permitted and relevant examples are provided below:

a. Temporary or Emergency Need

This provision is for use when there is an emergency or temporary need for a service due to an immediate threat to life, health, welfare and/or safety of persons or property. Because of the need to respond quickly, a Purchasing Agency may award a contract to a qualified Provider on an emergency sole source basis. In those rare instances when the crisis is so acute that the Purchasing Agency must respond immediately (e.g., within 24 hours), the short-term emergency procurement option, as described in section G of this Chapter, may be a necessary first step. Emergency sole source awards may only be made for the expected duration of the emergency or temporary need, and in no case more than one year. If the services will continue to be required, then the Purchasing Agency must undertake a competitive procurement process before the expiration of the sole source award.

Examples of situations when an emergency sole source award may be justified include:

- i) An abrupt or unanticipated termination of services by a Provider;
- ii) A determination by the Purchasing Agency that persons or property are threatened by the action or inaction of an existing Provider; or
- iii) An unanticipated or emergency presentment of an individual in critical need of services who cannot be served under an existing contract.

b. Unique Status

This provision is invoked when there is only one known Provider who is capable of and qualified to perform the services. The Purchasing Agency is responsible for conducting and documenting (in the justification) a diligent investigation to determine that this condition is satisfied. Examples include:

- (i) The specialized or unique nature of the services or mix of services required by the purchaser is such that only a single Provider can meet the proposed contract specifications. This will be quite rare since most purchase-of-service needs are for well-defined services that can be provided by several different agencies.
- (ii) Although the services are routine or standard, only one Provider is able to meet the specifications (such as licensure) necessary or there is only one existing Provider of a service. It is not sufficient to invoke this provision simply because a potential Provider has specific experience or delivers high-quality services or because the Purchasing Agency is only aware of one Provider of that service in a particular geographic area.

c. Provider Continuity

This provision is for use when it is determined that a change in the existing program's administration, staffing, or facility would significantly impair the achievement of clients' service objectives or would be otherwise detrimental to the clients' welfare. This basis for an award may only be invoked if the program for the clients in question was originally subject to competitive procurement procedures and the Provider's performance to date has been exemplary, as measured by achievement of client performance outcome measures. The justification statement must be accompanied by a copy of the Purchasing Agency's most recent written evaluation of the Provider's performance. This condition is most likely to be invoked for long-term residential programs.

d. Secondary Purchase

When a Purchasing Agency wishes to purchase a portion of the capacity of a program that has already been competitively procured by another state agency that is the primary program purchaser, then the secondary Purchasing Agency may award a contract pursuant to a sole source award under this provision.

e. Formula Procurement

When a Purchasing Agency receives funding which has been earmarked for a specifically identified Provider or which must be distributed to a group of Providers in accordance with a specified formula, then the contracts shall be awarded pursuant to this provision under object code M06. The justification statement may simply state or reference by attachment the specific language from the funding source that mandates the distribution.

2. OTHER NONCOMPETITIVE PROCUREMENT

In addition to 'sole source' awards, there are a number of other circumstances in which no competitive procurement occurs. These are discussed elsewhere in the Handbook and include:

- a) waiver of competitive procurement (See Chapter IX for a discussion of waiver requirements);
- b) pursuant to the Off-Cycle Bidding Policy (See Section A.2.a. in this Chapter); and
- c) emergency procurement (See Section G in this Chapter).

G. EMERGENCY PROCUREMENT

Occasionally a Purchasing Agency may be faced with an unanticipated situation which requires that certain social services be delivered to one or more clients immediately. The Purchasing Agency may then reimburse a Provider for necessary emergency services for a period not to exceed twenty-one (21) days or for services valued up to \$5,000, whichever is less, without executing a contract or agreement. This type of expenditure is classified as emergency procurement, under object code M08, and is limited to expenditures for direct client services and other expenses specifically required in the delivery of such services. It does not include the purchase of goods and supplies, unless they 1) are purchased by the Provider directly, 2) are specifically needed to provide the emergency service, and 3) are not already incorporated into the unit cost of the service. Emergency procurement is also not to be used in situations where the Purchasing Agency could reasonably have anticipated the need for emergency services throughout the year, such as crisis placements, and is expected to have already developed the capacity to address such needs as they arise.

Once it is determined that an emergency procurement is needed, the Purchasing Agency should take steps immediately to encumber funds through an open order SR/SC (see Chapter V for details) and to identify a Provider who can deliver the needed services. If the selected Provider does not currently do business with any state agency, then the Purchasing Agency must follow the procedures outlined in Chapter III for vendor certification. Once services are delivered, the Purchasing Agency may make payment upon receipt of a Payment Voucher and appropriate documentation of the nature and cost of services actually rendered from the Provider. The Purchasing Agency should also maintain adequate documentation of the circumstances underlying the emergency procurement for audit purposes.

In some cases, the emergency will need to extend beyond the limits for emergency procurement specified in the regulations (808 CMR 2.06(3)). The Purchasing Agency must then either initiate procurement or request a limited extension from DPS through the waiver process. If the Purchasing Agency expects the emergency to continue or if it expects that similar situations will arise again, then it should conduct a procurement process and execute one or more contracts to support the service. The primary procurement option in such a situation will be an emergency sole source for up to a year. If, however, the emergency can reasonably be expected to be resolved or completed within a brief extension of the existing limits, then DPS will grant relief upon submission by the Purchasing Agency of a waiver request, in accordance with the procedures outlined in Chapter IX. The waiver request must provide adequate assurances that the resolution or cessation of the emergency will occur prior to the expiration of the proposed extension. In no case will a waiver beyond the dollar limit of \$25,000 be granted.

CHAPTER III: GENERAL PROVIDER ELIGIBILITY AND KEY COMPLIANCE REQUIREMENTS

This chapter covers those requirements which Providers must adhere to in order to be eligible for initial or ongoing participation in the Commonwealth's purchase-of-service (POS) system, as well as some practices which all Provider participants are, by the terms of Commonwealth law or by the terms of Commonwealth contract documents, required to maintain. The information which follows is intended merely to call attention to key eligibility procedures and new or especially important compliance issues. It is not intended to be an exhaustive rendering of all applicable legal or contractual rights and responsibilities.

PROVIDERS ARE ADVISED TO CAREFULLY REVIEW THE PRIMARY SOURCES OF SUCH INFORMATION DIRECTLY, INCLUDING:
REGULATIONS 808 CMR 1.00 AND 808 CMR 2.00 (See Appendix 3),
ATTACHMENT 1 OF THE MASTER AGREEMENT (See Appendix 4), AND
THIS HANDBOOK.

A. POS ELIGIBILITY REQUIREMENTS

To gain entry into the Commonwealth's purchase-of-service system, or to remain eligible to deliver services under purchase-of-service contracts, Providers are required to engage in certain eligibility-related activities. Some of these requirements are annual in nature, while others must be conducted only upon the initial entrance of a given Provider to the contracted POS service system. These eligibility activities are described below.

1. THE MASTER AGREEMENT

The Master Agreement is the fundamental agreement underlying all purchase-of-service contracts. It is executed by a Provider and its Principal Purchasing Agency (PPA) and is required as a condition of entry into the Commonwealth's purchase-of-service system. A PPA is designated for each Provider in accordance with the procedures outlined in the next subsection. The PPA signs the Master Agreement on behalf of the Commonwealth and all other state Purchasing Agencies. The Master Agreement is the primary contractual document which sets forth the minimum standard terms for all subsequent POS contract agreements and which integrates all contract forms, signatory authorization, and compliance certifications required for POS contracting with Commonwealth agencies.

A Service Contract, by contrast, is the agreement for the delivery of a particular program of services that is executed by the Provider and a Purchasing Agency and becomes incorporated

by reference into the Master Agreement. Thus, the Master Agreement serves as a single "umbrella" provision containing and integrating terms and requirements common to all programs delivered by a given Provider entity, while Service Contracts focus solely on the programmatic and fiscal elements specific to a particular purchased program.

A Master Agreement must be executed by a Provider and its PPA and filed at the Office of the Comptroller by the PPA, before any state Purchasing Agency may enter into a Service Contract with a Provider for services classified under Object Codes MO3, MM3, MO5, and MO6. The Master Agreement takes effect upon execution and remains in effect unless or until it is terminated in accordance with the provisions contained in the General Conditions, which are incorporated as Attachment 1 of the Master Agreement (See Appendix 4). The General Conditions of the Master Agreement, which delineate all the 'boilerplate' contractual terms and responsibilities, can only be amended by the parties if the Division of Purchased Services (DPS) has granted prior approval.

NOTE: A valid Master Agreement is a prerequisite for Providers wishing to contract to provide social services. However, it is NOT authorization from the Commonwealth for any specific services. Such service authorization occurs on a contract specific basis, as described in Chapter V.

2. THE PREQUALIFICATION PROCESS

Current Division of Purchased Services regulations governing the procurement of social services provide for the periodic prequalification of Providers wishing to participate in the POS system. This provision - 808 CMR 2.14 - requires that the Secretary of each Executive Office, in consultation with the Division, develop procedures to annually review Providers' financial viability, organizational structure, and administrative capacity, including the review of Provider compliance with Commonwealth corporate and tax requirements. Purchasing Agencies may not enter into Master Agreements or Service Contracts with Providers that have not received certification of prequalification approval.

The prequalification process established by the Executive Office of Health and Human Services (EOHHS) affects the vast majority of Providers furnishing programs of social services to the Commonwealth. The EOHHS contract prequalification process is followed by the Purchasing Agencies within EOHHS as well as by the Department of Education. The prequalification of a particular Provider is administered by the Purchasing Agency that has been designated by EOHHS as the Principal Purchasing Agency (PPA) for that Provider. A Provider is assigned a PPA, usually based on which state agency contracts for the largest amount of POS contract obligations with the Provider. Organizations not currently contracting with the Commonwealth are initially assigned a PPA when they first enter the competitive procurement process, as described in Chapter II.

Under the EOHHS process, both PPA and Provider must certify that the prequalification standards have been met or that conditions of exemption exist prior to entering into a service contract. In some instances, a corrective action plan may be established to eliminate or address outstanding financial issues. The development of such plans may, in turn, result in the placing of eligibility conditions upon a given Provider prior to allowing the Provider to enter into a contractual relationship with the Commonwealth.

EOHHS prequalification standards require the Provider to submit a number of documents and certifications. Additionally, other information or documents which are not a formal part of the prequalification process (eg. Master Agreement, Equal Opportunity/Affirmative Action Statements and other related information) may be included in the prequalification materials. Each year, generally during the Fall months, EOHHS Purchasing Agencies distribute a full package of guidelines and documents relating to this process. Providers may contact their Principal Purchasing Agency for more information on the prequalification process.

3. EQUAL OPPORTUNITY/AFFIRMATIVE ACTION, PROGRAMMATIC ACCESS AND NON-DISCRIMINATION REQUIREMENTS

Provider organizations are required by state and federal law to meet certain equal opportunity, affirmative action, programmatic access, and non-discrimination mandates. Precise references to these mandates are available in Attachment 1 of the Master Agreement (General Conditions), which is an integral part of all POS contract documents. Additionally, pursuant to Executive Orders 227 and 246, all Providers awarded contracts with the Commonwealth totalling \$50,000 or more are required to comply with such EO/AA programs as are set forth by the Secretary of the Executive Office which oversees the operations of the state agency with whom the Provider has executed the contract. These programs are designed to eliminate the effects of discrimination in employment and service provision because of race, color, religion, sex, age, disability, or national origin, and to promote the full realization of equal employment or business opportunities for minorities and women.

For those Providers contracting with EOHHS Purchasing Agencies, the EO/AA plan submission requirement is coordinated through the PPA and the prequalification process. Providers must fulfill the EO/AA and programmatic access requirements set by EOHHS in order to be prequalified. These requirements may include EO/AA certifications, summaries and analysis of Provider affirmative action staffing goals, and analysis of Provider Board of Director membership. Review and approval of complete Plans by the PPA's Affirmative Action managers are a condition for participation in the purchase-of-service system for all Providers wishing to do business with EOHHS Purchasing Agencies. Full information on specific EO/AA requirements is available to Providers from their Purchasing Agencies as part of the annual prequalification process.

4. VENDOR CERTIFICATION

The Office of the Comptroller maintains a Vendor File as part of the Massachusetts Management Accounting and Reporting System (MMARS). All POS Providers must be on the Vendor File in order for a contract and/or payment to be processed. It is also critical that the supporting information in the file, such as vendor name, address, tax-exempt status, etc., be kept up to date. The Comptroller is establishing a new documentation process and each Provider will be required to report the following information on a W-8 or W-9 form:

- a) Correct Tax Identification Number: for organizations this is the Federal Employer Identification Number; for individuals it is their Social Security Number
- b) Legal Name and Address
- c) Organizational Type (i.e. Individual, Corporation, etc.)
- d) Tax Exempt Status (e.g. 501(c)(3) certification)

Massachusetts will use its own versions of the federal W-8 (Request for Certification of Foreign Status) and W-9 (Request for Verification of Taxation Reporting Information) forms to collect this information.

In the POS system, the process for vendor certification and/or updates to vendor information is generally coordinated through the Provider's Principal Purchasing Agency (PPA). The PPA is responsible for forwarding the vendor information, via a Vendor Update Input Form (VU) entered into MMARS, to the Office of the Comptroller. As of June 1, 1992, all additions to the file (i.e. new Providers) or updates to the file, will require that a completed W-8 or W-9 form be attached to the VU. The Provider is responsible for alerting its PPA of the need to update information in its Vendor File and must provide adequate documentation of any change on the Provider's agency letterhead. More information about the W-8/W-9 or VU forms is available from the Office of the Comptroller.

5. DEBARMENT

Both the Commonwealth of Massachusetts and the federal government operate under legal provisions which allow for certain individuals or organizations to be excluded from doing business with government entities on the basis of poor contract performance or prior misdeeds or criminal activity of these individuals or organizations. The process which leads to this formal exclusion is called debarment.

Under Federal oversight standards (48 CFR c.1 subpart 9.4) and under Massachusetts law (St. 1991, c.550) and DPS regulations (808 CMR 2.15), Purchasing Agencies are required to determine, prior to entering into a contractual relationship with any Provider, that the Provider has not been debarred under state or federal law. A Federal Debarred Vendor List is produced monthly and is available from the General Services Administration. (See Appendix 12 for

details.) A list of contractors debarred by the Commonwealth is published in The Central Register (ISSN 0744-9089), which is published weekly by the Secretary of State and is available in local libraries and by subscription from the State Bookstore.

B. POS COMPLIANCE REQUIREMENTS

When the Commonwealth enters into a contractual relationship with a Provider for the delivery of a program of social services, that relationship is subject to a host of contractual and regulatory provisions. Many of these provisions have been established to respond to the need of the Commonwealth and the Federal government to ensure that public funds are spent appropriately and efficiently and that individuals in public programs are well served. The principal provisions that govern public contracting activities are set forth below. Other provisions governing the contract relationship do exist, and all parties to social service contracts should take pains to review all of the constituent parts of the contract document in order to be fully aware of the rights and responsibilities of the parties to the contract.

Regulation 808 CMR 2.00: Procedures for Procurement of Social Services
(See Appendix 3)

Regulation 808 CMR 1.00: Pricing, Reporting and Auditing for Social Service Programs (See Appendix 3)

General Conditions of the Master Agreement for Social Service Contracts
(See Appendix 4)

If any federal funds are involved, additional compliance requirements for Providers are established, as set forth in the following documents:

Office of Management and Budget Circular No. A-21

Office of Management and Budget Circular No. A-110

Office of Management and Budget Circular No. A-122

Office of Management and Budget Circular No. A-133

The Division's Audit Bureau has compiled an information packet containing documents related to compliance with federal requirements which is available upon request. In addition, the Audit Bureau circulates an Auditor's Compliance Supplement, which contains the universally applicable provisions, together with its UFR materials to all POS providers and their auditors each year. (The UFR is the Uniform Financial Statements and Independent Auditor's Report that is

discussed later in this Chapter.) Commonwealth and Provider personnel charged with carrying out the provisions of the contractual relationship for the delivery of programs of social services should acquaint themselves with the requirements of these contractual and regulatory documents. Most of the requirements for competitive procurement, solicitation of interest and information, and waivers are discussed in other sections of this Handbook.

Further detail about some of the provisions or standards relating to accounting, financial reporting and auditing requirements is provided in Appendix 8. In addition, in this section we provide a summary of some of the principal provisions relating to compliance and accountability.

1. THE GENERAL CONDITIONS OF THE MASTER AGREEMENT

Attachment 1 of the Master Agreement (see Appendix 4) contains the General Conditions, which apply to all contracts for the purchase of social service programs under the regulations of the Division of Purchased Services. The General Conditions consist of eight articles, which include provisions governing the rights and responsibilities of the parties in the following topic areas, among others:

- * Certifications of Tax and Filing Requirements
- * Disclosure of Persons with Financial Interest in the Agreement
- * Assignment and Delegation
- * Methods of Amendment
- * Termination of the Agreement and Obligations Upon Termination
- * Financial and Client Recordkeeping
- * Personnel Policies
- * Payment
- * Audit and Inspection of Records

Some of these topic areas will be discussed in greater detail elsewhere in this Handbook. At this point, however, we would like to call your attention to several sections which reflect recent additions to or important provisions of the General Conditions.

a. Provision of Child Care

Under Massachusetts Law (St. 1990, c. 521, s. 7, as amended by St. 1991, c. 329, and 102 CMR 12.00) any business employing fifty or more full-time employees which receives a notice of an initial contract award on or after July 1, 1992 must, in order to enter into a contract with the Commonwealth, offer a dependent care assistance program (which satisfies the requirements of section 125 or 129 of the federal Internal Revenue Code), child care tuition assistance, or on-site or near-site subsidized child care placements to its employees. (See Appendix 12 for resources to assist Providers in complying with this requirement.)

b. **Americans With Disabilities Act**

The recently enacted federal Americans With Disabilities Act of 1990 (ADA) has added additional protections for employees, applicants for employment, and clients with disabilities by prohibiting discriminatory practices against individuals with disabilities and by requiring practices which promote equal opportunity in employment and program access for persons with disabilities. While the Commonwealth has been, and continues to be, committed to furthering equal opportunity for persons with disabilities and our contracts have prohibited discrimination based on disability in keeping with Section 504 of the Federal Rehabilitation Act of 1973, the ADA has required changes in our contract terms. The ADA, in some instances, imposes different responsibilities on private organizations and state agencies. It also extends the requirements imposed on state agencies to programs the state purchases by contract. As a result, the General Conditions of the Master Agreement have been amended to require that Providers satisfy the provisions of the ADA applicable to state agencies, as well as those provisions which would be generally applicable to private Provider organizations. The regulations developed to implement the ADA detail the requirements of the Act and are cited in the General Conditions of the Master Agreement. (Further information on resources available to assist Providers in complying with ADA is located in Appendix 12.)

c. **Client Neglect and Abuse**

The General Conditions require that Providers furnish their Purchasing Agencies with copies of all legally mandated reports of client abuse or neglect where the alleged abuse or neglect was a direct or indirect consequence of the services rendered under the Service Contract. In addition, Providers must comply with all other reporting requirements relative to client abuse and neglect contained in the Service Contract.

2. FINANCIAL REPORTING

The POS system utilizes a uniform financial reporting system. This uniform reporting system has been codified by DPS as the Uniform Financial Statements and Independent Auditor's Report (UFR). The UFR has replaced many of the multiple financial reports that Providers have been required to submit annually to state and other authorities or funding sources, including the Attorney General's Public Charities Division, certain bureaus of the Rate Setting Commission, certain chapters of the United Way of America, and most Federal departments. The extensive use of the UFR by these organizations and other report users has made the UFR the primary set of financial statements for Provider organizations.

This system has been designed to meet the need for proper fiscal accountability and to provide report users with current, reliable information regarding Providers' financial status and the results of Provider operations. In addition to streamlining and simplifying, this reporting system

has numerous other benefits. Instead of providing information which is then subject to audit, the report itself is audited independently by the Provider's independent auditor. It contains a single uniform chart of accounts which insures that the Provider, the state, and other funding sources and oversight authorities have the basic necessary information about a Provider's operations. The report also includes the auditor's opinions about the adequacy of internal controls and compliance with laws and regulations, in keeping with the requirements of Generally Accepted Government Auditing Standards.

In implementing the UFR system, DPS has adopted established accounting principles and a format for financial statements that has been used by the accounting industry for audits of nonprofit voluntary health and welfare organizations conducted in accordance with generally accepted auditing standards (GAAS). These accounting principles and auditing standards have been promulgated by the American Institute of Certified Public Accountants (AICPA) in the industry guide entitled "Audits of Voluntary Health and Welfare Organizations". In addition to the basic financial statements, four unaudited supplemental schedules that report program revenues, expenses, and statistics were developed to accommodate pricing, data collection, and federal reporting needs. This information is subject to audit in accordance with Generally Accepted Government Auditing Standards (GAGAS), which incorporates the auditing standards noted above.

The Provider files its UFR annually with the Division of Purchased Services' Bureau of Audit and with the Principal Purchasing Agency (PPA) of the Provider. Provider organizations that are generally subject to the UFR filing requirements (pursuant to St. 1992, c. 133, s. 113) include every individual, group, partnership, trust, corporation, or other legal entity which owns or operates one or more programs of habilitative, vocational, employment and training, or elder services program, including any program provided pursuant to M.G.L. c. 71B (special education programs) but excluding any program which is reimbursable under Title XIX of the Social Security Act. There are notable exceptions and exemptions from this filing requirement, which are published by the Bureau of Audit as part of its annual information package.

It should also be noted that the UFR is filed annually with the Provider's PPA for contract prequalification purposes. Providers that are subject to the UFR filing requirements may not submit alternate sets of financial statements other than the UFR in order to prequalify.

DPS regulations also include certain penalties for failure to file the UFR as required. Failure to submit a timely and properly completed UFR to DPS within thirty (30) days of the filing deadline may result in the following penalties:

- a) Withholding of up to 10%, as determined by the Division, of the Provider's monthly billing to state Purchasing Agencies;

b) Disqualification from the Ready Payment System, under regulation 815 CMR 3.10(1); and/or

c) Receipt of a conditional status or total rejection for contract prequalification purposes.

3. RECORDKEEPING

The recordkeeping systems employed by Provider organizations participating in the POS system must be able to respond to the need to document Provider activities and meet financial and program reporting requirements. The financial and program records can be viewed as an information system that is used to record the financial and program events that occur. Without this information readily available, Provider organizations would be unable to communicate whether and to what extent the goals and objectives of the organization and/or the underlying contractual agreements have been achieved in an efficient and effective manner.

The General Conditions of the Master Agreement and federal OMB Circular A-122 require the use of Generally Accepted Accounting Principles (GAAP) by Provider organizations for the establishment and maintenance of financial and certain program records. These principles allow for the recording and summarizing of financial activities in a manner that clearly and fully reveals the sources and amounts of support, revenue, and the type and extent of expenditures. The accounting and program recordkeeping system should also identify the benefits accruing to clients or consumers of the Provider's services.

In addition to the general recordkeeping provisions of GAAP, the General Conditions contain additional specific record maintenance provisions (eg. maintenance of client attendance records, personnel records, including time and attendance documentation, written inventory of assets, including assets to which the Commonwealth holds title, etc.). Provider agencies should familiarize themselves with these requirements and develop systems to ensure compliance.

More information on the recordkeeping requirements of GAAP is available from the Audit Bureau.

4. RELATED PARTY DISCLOSURE

Financial Statements that have been prepared in accordance with Generally Accepted Accounting Principles must disclose related party transactions and conditions. Some examples of related party conditions include: a) Provider agency transactions with family members or relatives of the Provider's board members and/or management staff, b) transactions with individuals or organizations which have an ability to influence or control, directly or indirectly, the actions of the Provider, and c) transactions with a person or organization which is associated with the Provider by engaging in a joint venture resulting in direct or indirect financial benefit to either of the parties.

Generally speaking, all transactions and events reported in financial statements are presumed to be completed on an "arm's-length" basis. In situations in which related party transactions exist, this presumption of an arm's length relationship no longer applies, and it becomes necessary for the Provider to disclose related party transactions in order not to mislead report users. Consequently, organizations that promulgate accounting standards, such as the Commonwealth and the AICPA, feel that financial reports are more complete and reliable if related party disclosures are required. These disclosures must be made in the notes to the financial statements of the UFR, in proposal submissions and/or during contract negotiations, and for prequalification. The following disclosures are required for all material related party transactions:

- a. Nature of related party relationship;
- b. The receivables or payables associated with related party transactions for each date that a balance sheet is presented, and, if not clearly determinable, the conditions and methods of settlement;
- c. For each period that an income statement is presented, the following is required:
 - (1) A description of transactions and other necessary information needed for an understanding of the impact of the transactions, and
 - (2) Dollar amounts assigned to transactions, and the impact of determining the terms of the transactions, if different from prior periods;
- d. If two or more companies are under common control via ownership or management, the disclosure in item a., above, is required, even though no transaction occurred, if common control could have a material impact on the financial statements of the reporting Provider.

All related party disclosures must be made in accordance with the principles set forth in 808 CMR 1.00 and the AICPA Financial Accounting Standards Board SFAS No. 57. In addition, there are important restrictions placed upon the allowability of costs associated with related party transactions. These restrictions are set forth in DPS regulations at 808 CMR 1.15. Providers are urged to read and understand these important provisions in order to properly comply with any disclosure requirements and to avoid possible cost disallowances.

5. COMPLIANCE ISSUES RELATED TO FEDERAL FUNDING

The federal government has promulgated a number of compliance requirements which must be followed by all Provider agencies which directly receive federal funds or which perform substantive work as subrecipients of federal grants that are passed through or awarded by the

Commonwealth. Some of the key compliance circulars are summarized below.

a. Office of Management and Budget Circular No. A-110

This circular sets forth bonding and insurance requirements, record retention and access requirements, cost sharing criteria, standards for financial management and reporting, standards for property management, and requirements for the procurement of supplies, equipment, and other items, among other provisions. This Circular also sets forth important standards for program performance and monitoring, which will be further discussed in Chapter VIII.

b. Office of Management and Budget Circular No. A-122

This Circular establishes principles for determining costs of grants, contracts, and other agreements with nonprofit organizations that receive federal funds either directly from the federal government or as subrecipients through the Commonwealth. It sets standards for allowability and reasonability of various cost items, and requires that the allowability of costs be fully in keeping with Generally Accepted Accounting Principles.

c. Office of Management and Budget Circular No. A-133

This Circular requires subrecipients of federal funding to produce a single audit under the terms of OMB Circular No. A-133. For Providers contracting with the Commonwealth for social service programs, completion of the UFR is a starting point for meeting federal financial assistance subrecipient single audit responsibilities under A-133. In addition to the UFR requirement for Commonwealth subrecipients of federal funds, Providers are required by the terms of A-133 to meet the audit requirements based on awards received, to select their auditor in accordance with OMB Circular A-110, and to file and resolve audits as required by the Circular or by the Commonwealth.

The Division's Audit Bureau has an information packet which provides important information concerning the provisions of OMB Circular A-133, and a summary of the responsibilities of the Provider and Purchasing Agency, which is available upon request. Additional guidance concerning single audit requirements is contained in the UFR instructions.

In addition to those compliance requirements which are of general applicability to all participants in the purchase-of-service system, there exist numerous requirements which Providers must comply with that are specific to the Purchasing Agency and/or the Secretariat. These requirements are generally set forth in Attachment C of the contract document. Providers should, of course, familiarize themselves with the provisions cited in the Attachment C for each POS contract or Purchasing Agency with which they do business.

CHAPTER IV: PRICING PROGRAMS

This chapter describes how prices or rates are established for purchase-of-service (POS) contracts. Although all state Purchasing Agency procurement of purchase-of-service programs is governed by Division of Purchased Services (DPS) regulation, the price setting authority for those services is shared between DPS and the Rate Setting Commission (RSC), as spelled out in 808 CMR 2.13. DPS has issued regulations (808 CMR 1.00 - see Appendix 3) governing how prices are to be established for purchase-of-service programs under DPS's pricing jurisdiction. In short, DPS is responsible for pricing all social services except those that are Medicaid-reimbursable. The RSC sets those prices for Medicaid and all other governmental purchasers of Medicaid-reimbursable services. The Division's pricing regulations also include specific provisions on how DPS sets rates for c.71B approved special education schools, although these will not be discussed further in this Handbook.

The rest of this chapter describes how programs are priced, the various reimbursement methodologies, the parameters for negotiating prices, the concept and application of component pricing, and the price approval process. Descriptions of the contract budget form and payment procedures are contained in Chapter V and some general guidance on preparing budget proposals is also included in Chapter II.

A. PRICING PURCHASE-OF-SERVICE PROGRAMS

The pricing process for all POS programs subject to 808 CMR 1.00 (except special education services from Chapter 71B approved private schools) is based on open negotiations between the state Purchasing Agency and the Provider. The Division's primary role is to establish the rules under which such negotiations occur. The final price that has been agreed upon between the parties is then approved by DPS on a contract-specific basis, which allows the state Comptroller to authorize payments. The Division's Pricing Bureau is always willing to work with Purchasing Agencies and Providers to develop prices, pricing methodologies, or alternative reimbursement structures that may be more responsive to particular programs or purchasing situations.

When developing and negotiating a program budget, both the Provider and the Purchasing Agency should first review the program narrative. Everything that is needed to operate a given program should be articulated in the program narrative and should be carried over onto the budget document. It is also important to note that budgets should reflect the total annual (12-month) program resources needed to operate a given program. This total annual program budget should not exceed the amount of all reasonably anticipated annual revenues for the program.

If a particular contract under negotiation is not expected to purchase the entire program and/or if there are other sources of revenue for the program, these facts will be reflected on the budget as "offsets" or will be listed as other sources of income from other purchasers of the program in order to derive the resulting contract maximum obligation. A similar principle holds true for

partial year budgets, where the adjustment from the annual program cost to an actual contract budget may be made by subtracting the balance of year costs as an offset, use of other sources of revenue or balance of the year funding. In these circumstances, the annualized value (or annualized maximum obligation) of the contract should also be stated on the contract. Offsets to total annual program costs can be shown in several places on the budget, depending on the purpose and source of the offset and the type of reimbursement. More details about offsets and multiple sources of revenue can be found in section C of this chapter and in the instructions that accompany the program budget (Attachment B) forms.

All budgets in purchase-of-service contracts should be prepared using the program components, as listed in the current Component Price Catalogue, regardless of the price structure or methodology being applied to the contract. These program component titles are also used in the uniform financial reporting system described in Chapter III. Consistent use of program components to characterize the resources in the budget allow for easier comparison and analysis. In fact, in negotiating a budget for an existing program, the Purchasing Agency may review the Provider's most recent UFR to compare actual costs to projected expenses. In the case of costs listed on the Agency Administration Support Allocation line of the Attachment B, the Purchasing Agency may, at its discretion, request supporting documentation for those costs. However, if such a request is anticipated, the Purchasing Agency should so stipulate in the Request for Proposal (RFP) document.

In reviewing a proposed budget, both the Provider and the Purchasing Agency should ensure that all parameters and limitations described in this chapter and in 808 CMR 1.00 are met. State Purchasing Agencies must balance their role as prudent buyers with the acknowledgment that purchase-of-service programs should be priced fairly. One of the guiding principles of POS reform is fair, market-based pricing, which was developed in part to support the long-term stability and viability of the community service system.

Programs which are competitively procured under the principles of Component Pricing must be negotiated within the pricing parameters of the Component Price Catalogue. More details regarding Component Pricing can be found later in this chapter (Section D) and in the instructions that accompany the Component Price Catalogue.

The pricing and reimbursement of programs by the Commonwealth must not include nonreimbursable costs as described in 808 CMR 1.15.

B. PRICE STRUCTURE/METHODS OF REIMBURSEMENT

Currently, there are three basic pricing structures that may be utilized for reimbursing Providers of social service programs: unit rate, accommodations purchase and cost reimbursement. Programs purchased on a unit rate basis are paid a specific amount for each unit of service delivered. This is also known as fee-for-service pricing. When this price structure is established pursuant to DPS regulations, it is called a negotiated unit rate. On the other hand,

most unit rates set by the Rate Setting Commission are not individually negotiated and are generally known as class rates. Accommodations purchase is a newly available pricing structure which is permitted for those programs where a particular service is required to be available, whether or not the service is actually used, such as an emergency program. In those cases, the Purchasing Agency and the Provider may negotiate a price based on a unit of time the service is available. In situations in which neither a unit rate nor an accommodation rate can be established, the parties may utilize a cost reimbursement pricing structure, which allows a Provider to be reimbursed for actual expenditures as they are incurred in the delivery of services on a line-item budget basis. A discussion of capital purchases is also included at the end of Section B.

1. NEGOTIATED UNIT RATES (FEE-FOR-SERVICE PRICING)

In summary, in order to determine a price for a unit of service, the Provider and Purchasing Agency must negotiate the total costs (including agency administration) for operating a program at a specific capacity and divide by the total number of units of service that the program can produce at that capacity. This amount may be adjusted by an agreed-upon utilization factor. We should, however, discuss some key steps in the development of a negotiated unit rate program budget.

Purchasing Agencies must carefully evaluate the type of services they are buying to determine both an appropriate unit of service and its corresponding rate. The unit should be the best possible quantitative measurement of the service being purchased. This quantitative measure could be in units of time, in units of tangible services, or in keeping with negotiated outcome measures. A service unit that is based on a measure of time should be tied to the amount of time devoted to a particular activity, such as a bed-day or a counseling hour. On the other hand, some programs produce a discrete, measurable result - a diagnostic report, a completed examination, etc. - which can better serve as the unit of service for reimbursement.

After determining an appropriate unit measure, the next step is for Purchaser and Provider to negotiate a reasonable annual operating capacity for the program. Operating capacity is defined in 808 CMR 1.00 as the maximum number of service units of a program for which there is adequate, planned and budgeted space, equipment and staff. Most often, this is based on the program's licensed capacity. However, it is important that the negotiating parties take steps to ensure that the program's operating capacity reflects anticipated overall demand (and corresponding revenue). An adjustment to the operating capacity is also usually made by means of the application of a utilization allowance, which is further described in Section C.2. The chosen utilization allowance is then multiplied to determine the program divisor. The net adjusted program expense, which is the total program cost minus relevant program offsets, is divided by this program divisor to determine the program's unit rate.

The maximum obligation for the program under contract is determined by multiplying the unit rate negotiated for the program by the actual number of units the Purchasing Agency wishes to purchase and subtracting the sum of any anticipated invoice offsets (such as client sliding fees).

More details about the calculation of the maximum obligation can be found in the instructions that accompany the Attachment B: Program Budget forms.

2. ACCOMMODATION RATES

The concept of "accommodations" purchase is being introduced as a pricing mechanism for certain purchase-of-service programs, beginning in FY'93. Purchasing Agencies may use accommodation rates for those POS programs in which a particular service is required to be available on a routine basis, notwithstanding the quantity of services actually delivered. In essence, the Purchasing Agency is reserving all or a portion of the provider's program capacity, in order to be assured of its availability whenever needed. The difference between fee-for-service and accommodation prices is premised on the notion that fee-for-service prices are based on the actual delivery of services to clients while accommodation prices are based solely on the availability of services for clients.

Emergency services are an example of a service that may be suitable for accommodation rates. In these cases, a Provider may operate a program on a twenty-four hour basis, regardless of how many clients, if any, are being served in the program during that period. The Commonwealth is purchasing the ongoing availability of the service on a full-time basis, and not just in those instances in which actual services are delivered and a client is present. Without a predictable measure of client utilization that can form the basis of a negotiated unit rate for a particular service, the Provider is instead being asked to "accommodate" the purchaser by making the service continually available. Essentially, the price is not determined by the actual client utilization of the program, but rather by some quantifiable measurement of service operations. The unit of measurement of such services will usually be in an increment of time. In a crisis stabilization or facility-based respite program, such services may be measured by reserved beds.

The Purchasing Agency does not have to purchase 100% of such a program, but the Provider must always make available to the Commonwealth the number of units corresponding to the percentage of the program that is being purchased. For example, a Purchasing Agency purchases 80% of an emergency respite program which has five beds. Twenty percent of this program is purchased by private payors or third parties. In this case, the provider must leave four beds available for the Commonwealth at all times. As stated earlier, accommodation rates are intended to purchase the continued availability of services, and not the actual delivery of services. In the case above, then, the Provider must leave at least four beds available for the Commonwealth during the full duration of the contract. The Commonwealth's clients cannot be denied services in any instances in which designated accommodation units under the contract are not being fully utilized.

Purchasing Agencies may only utilize accommodation rates for contracts that would otherwise be cost reimbursement contracts. Accommodation purchases also should not be used as a substitute for a fee-for-service purchase contract. Moreover, the concept of a utilization factor is not relevant in the accommodations purchase price mechanism. Purchasing Agencies, however, should review the actual utilization of accommodation rate services in order to adjust

the level of purchase, if necessary, and to determine the cost effectiveness and feasibility of the program and the accommodations purchase mechanism. The basis for determining the amount of service capacity needed to adequately serve the Purchasing Agencies clients should be documented.

3. COST REIMBURSEMENT

The cost reimbursement pricing structure reflects a purchase arrangement in which the Purchasing Agency pays the Provider for budgeted costs that are actually incurred in delivering the services specified in the contract, up to a stated maximum obligation. Cost reimbursement budgets, with the attendant line item controls and cost monitoring, may be appropriate in certain circumstances described below. However, DPS encourages Purchasing Agencies and Providers to negotiate contracts on a unit rate or accommodations purchase basis whenever possible.

Under the provisions of 808 CMR 1.06, Purchasing Agencies may purchase services on a cost reimbursement basis only if:

- (a) The contract is in the start-up year; or
- (b) The Purchasing Agency has a need to closely monitor the actual expenditures of the provider; or
- (c) Special circumstances exist that make service delivery under the unit rate or accommodation purchase provisions unfeasible, such as when defining an overall unit of service is not possible.

Permission to utilize cost reimbursement contracts under the provisions of 808 CMR 1.06 (3)(c) will be authorized in accordance with Division policy.

In cost reimbursement situations, any budgeted cost that is not actually incurred, including the allocation of administration, can neither be billed by the Provider nor reimbursed by the Purchasing Agency. Thus, Providers are assured in these instances of being reimbursed for all incurred costs that were included in the budget. However, any cost savings that are generated as a result of budgeted costs not ultimately being incurred by the Provider, must be passed on to the Commonwealth.

Line item adjustments to cost reimbursement budgets, with no attendant change in the overall maximum obligation of the contract, are permitted, subject to Purchasing Agency approval. However, line item budget amendments that involve changes equal to or greater than 10% of budget categories, or which involve the addition of a new program component line to the budget, require the Provider to prepare and submit a formal amendment to its Purchasing Agency. As a matter of general information, the budget categories are the Component summary sections of the budget: 1. Total Direct Care/ Program Staff, 2. Other Direct Care/ Program Support, 3. Occupancy, 4. Agency Administration, and 5. For-Profit Earnings Factor. Amendments reflecting changes that are less than 10% must be documented in accordance with the specific Purchasing Agency's policy.

The utilization of cost reimbursement contracts does not preclude the adoption and use of outcome measures. In fact, as has been discussed in Chapter II, DPS encourages the development of performance outcomes for all programs.

Contracts with start-up cost reimbursement budgets should be converted to either fee-for-service or accommodation purchase in the second year of services and in any succeeding years. Please note that programs which are priced in accordance with Rate Setting Commission class rates must utilize the class rate from the program's inception; no start-up cost reimbursement budgets are permitted in those cases.

4. CAPITAL BUDGETS

Subject to the Purchasing Agency's authorization, Providers may take steps to purchase certain program-related furnishings and equipment through POS contracts, by using a 'capital budget'. In these cases, the following conditions apply:

- a) The Purchasing Agency must approve the Attachment B: Capital Budget prior to any purchase.
- b) The Purchasing Agency will hold title to any assets acquired through this process, although the Provider must list such assets on its UFR in a certain manner.
- c) The Provider may not treat such assets as depreciable items and therefore, may not include them in the program operating budget of the contract.
- d) This procedure only applies to movable furnishings and equipment.
- e) The Provider investigating the cost of the furnishing or equipment should secure at least three bids and select the lowest cost bidder. The documentation of bids should be retained on file with the Provider but need not be submitted with the capital budget request. If an item is on the State Purchasing Agent's approval list, there is no need to secure bids as long as the price paid does not exceed the price on the Purchasing Agent's list. The State Purchasing Agent maintains bid lists for items purchased or to be purchased by the Commonwealth and its subentities. These lists are available from the Department of Procurement and General Services. See Appendix 12 for more information on how Providers may purchase items, both capital and non-capital, that are on the State Purchasing Agent's list.
- f) The Provider must maintain an accurate inventory, which is updated yearly, of all capital budget items. The inventory schedule must segregate Commonwealth-owned assets from the Provider's own depreciable assets.
- g) The disposal and surplusing of state equipment must be consistent with Department of Procurement and General Services procedures.

C. PARAMETERS/RULES FOR NEGOTIATING PROGRAM BUDGETS

1. LIMITS ON PRICES AND REIMBURSEMENT

Payments for services in the POS system are subject to the following conditions:

- a) Price Limit: The DPS authorized price for a POS program and paid by Commonwealth agencies cannot be higher than the lowest fee (excluding payments based on a sliding fee scale) charged to the general public or any third-party payor.
- b) Full Payment: The program's authorized price, as certified by DPS, shall be accepted as full payment for the services provided under the contract. If any client resources or third-party payments are received by the Provider for that service which were not factored into the calculation of the price, then such payments shall reduce the amount of the Purchasing Agency's contract obligation.
- c) Commonwealth as Payor of Last Resort: In many cases, including "class rate" programs, the Provider is required to seek reimbursement from all other payors of the services first before billing the Commonwealth.
- d) Nonreimbursable Costs: The price authorized for a POS program and paid by Commonwealth agencies cannot include costs defined as nonreimbursable under 808 CMR 1.15. Providers must use non-Commonwealth sources of funds to offset nonreimbursable costs.

2. PROGRAM UTILIZATION

In developing a unit rate program budget, the negotiating parties must consider how close to its full operating capacity the program will generally run throughout the year. This is particularly important for programs which are operated on a closed-referral basis. A program containing slots which will be fully occupied every day the program is in operation will have 100% program utilization. Usually, however, Providers can actually expect to deliver fewer than the maximum number of possible units, due to client turnover, illness, or vacations or other circumstances. For example, a ten bed program which operates 365 days a year has an operating capacity of 3650 and a corresponding budget which reflects the space, equipment and staff needed to operate a ten bed program. If, on average, only nine beds are actually occupied each day, the utilization factor is 90% ($3385/3650 = 90\%$). Thus, program utilization represents the percentage of the program's maximum possible annual operating capacity that can reasonably be expected to be used. As stated earlier, a utilization factor is not used in the accommodations purchase price structure.

The Purchasing Agency and the Provider may negotiate the number of service units which are expected to actually be delivered in a given program. The exact utilization rate that is negotiated may be based on the program's prior utilization history, the average for all programs of the

type, or the industry standard of 85 %. Usually the utilization factor will range between 85 % and 95 %. This does not preclude Purchasing Agencies from using a 100 % utilization factor when full utilization of the program's capacity is expected. However, Purchasing Agencies are encouraged to consult with DPS if a utilization less than 85 % is being contemplated.

The assumption in basing a unit price calculation on a utilization factor is that the provider incurs costs even if a slot is empty and that it is usually unrealistic to expect that any program can operate constantly at 100% capacity. By including a utilization factor in the calculation, the resulting unit price will be sufficiently high to allow the Provider to recover necessary program costs, even if some slots are temporarily vacant.

The inclusion of a specific utilization factor in the rate negotiation, may also, however, result in a situation in which a Provider is actually serving clients at a higher utilization level and will reach the maximum obligation of the contract (or "bill out") before the end of the contract period. If the increased level of service delivery is due to higher than anticipated program utilization, then the provider is obliged to provides services up to the agreed-upon program's budgeted maximum operating capacity for the remainder of the contract period, with no additional funding. It is presumed that the costs for delivering those units of service have already been recovered by the Provider through the higher unit rate. The application of a utilization factor does NOT result in the Provider delivering "free service" to clients after a given contract has been billed out. Rather, in these cases a Provider has merely been fully reimbursed in a shorter period of time than the full contract duration specifies.

Provider organizations which negotiate contracts including utilization factors will only receive payments for those units of service actually delivered to clients. Purchasing Agencies may not reimburse the Provider for the difference between actual utilization and budgeted utilization, unless an amendment to the contract is negotiated.

NOTE: ISP Planned Vacancies and Approved Long Term Illness Policies may be examples of special exemptions to this policy. Providers should contact their Purchasing Agency for more information on possible exemptions.

3. DOCUMENTATION OF NONREIMBURSABLE COSTS

A program budget must reflect all costs associated with the program. This may occasionally include costs that are nonreimbursable by the Commonwealth, as specified in 808 CMR 1.15. If non-reimbursable costs are included in the budget, a Provider must specifically identify those non-reimbursable costs and use non-Commonwealth revenue as offsets to defray those costs in its contracts with Commonwealth agencies. Where it is later determined that an authorized price includes non-reimbursable costs that were not identified in the program budget and the price calculation, those costs will be subject to recoupment by the Commonwealth.

4. OFFSETS

As stated earlier, Program Budgets (Attachment B of the contract) should include all costs associated with the annual operation of a program, regardless of the type of expense. Often, however, a particular contract's maximum obligation may be less than the program's total cost because other sources of revenue are available to offset some of the full array of program expenses. "Offset" is the term used to describe revenue sources which are either mandated by the Purchasing Agency, volunteered by the Provider or required by restrictions applied by the revenue source to defray program costs. Such offsets include those sources of revenue or other support that a Provider identifies in the budget document in order to reduce program expenses, which reduce the unit rate and/or the amount of monthly billing for services.

Section VII.A.3 of the General Conditions of the Master Agreement for Social Services stipulates that any client funds, third party reimbursement or other governmental or private funding that may be available as a result of the services rendered pursuant to a service contract must be incorporated into the contract. Further, 808 CMR 1.18 stipulates that any client resources or third party payments made on behalf of a client covered by the contract, that are not expressly recognized or anticipated in the computation of the price, shall reduce the amount of the appropriate Purchasing Agency's obligation for services rendered to that client(s). Therefore, Providers and Purchasers must make every effort to both anticipate and incorporate as closely as possible into the program budget any expectations regarding alternative resources such as client fees and third party reimbursements. Further, in the event that additional revenues for contracted services are received, even if they were not anticipated in the program budget, Providers must proportionately adjust billings to the Commonwealth or amend the contract for these services. In many cases, the Purchasing Agency will be able to increase the number of units purchased under the contract as a result of the increased availability of other sources of revenue. Section E of this chapter contains a discussion of other circumstances when a budget should be amended.

The Purchasing Agency should be consistent in the application of offsetting revenue. A Request for Proposals should state if offsetting revenue is required. This may include expectations regarding third party revenue, private payments, sliding fees, commercial revenue, or SSI. The Purchasing Agency should also specify the basis for establishing the amount of offsetting revenue. For example, third party revenue may be based on the volume of services delivered, or SSI may be based on the expected number of eligible clients in the program. This minimum basis would allow potential bidders an 'even playing field' for the competitive procurement process. A Purchasing Agency cannot require offsetting revenue for one Provider and not for another for the same service, unless the revenue can be shown to vary according to the clients in the program. In addition, a Provider may choose to apply unrestricted revenue as an offset; however this is voluntary and cannot be required by the Purchasing Agency.

The listing of offset revenue contained in the Program Budget must specify the revenue source and the amount. "Free care" or unfunded deficits are not recognized as valid sources of offsetting revenue or support. Providers and Purchasing Agencies should not use offsetting

revenues as a "plug" figure to "back into" the price or maximum obligation of a particular contract. Instead, the offsetting revenue should be a realistic projection based on the specific revenue sources. The Purchasing Agency should review the Provider's past experience and/or industry standard averages when assessing the value of offsetting revenue.

If a Provider's budget includes nonreimbursable expenses, as defined in 808 CMR 1.15, then offsetting revenue from non-Commonwealth sources should be used to eliminate those nonreimbursable costs to the Commonwealth in its contracts with the Provider. In these cases, offsetting revenue should be itemized and should reconcile with and be limited to the amount of nonreimbursable expenses.

a. Program Offset vs. Invoice Offset

In order to prepare a contract budget and, if applicable, calculate a unit rate correctly, it is important to understand the distinction between program and invoice offsets. Program offsets are revenues which benefit the entire program and can be expected to continue to be available for the program regardless of which clients are in the program. The inclusion of program offsets in a budget lowers the per unit cost of the services for all clients and payors.

Program offsets are not deducted from the billing to the Purchasing Agency. Examples of program offsets include, but are not limited to, the following: United Way; commercial revenue; unrestricted funds voluntarily given by a Provider; utilization of public facilities and/or state employees; and excess surplus revenue (as defined by 808 CMR 1.19(3)). Although third party income, SSI, food stamps, rent and client resources are usually included as invoice offsets, they may be treated instead as program offsets when the program serves a stable client population for whom client-based revenues will not fluctuate. In the case of cost reimbursement budgets, only program offsets are applicable.

Invoice offsets are revenues which are client-specific: a change in clients would significantly change the amount of available revenue. Examples of invoice offsets include sliding scale fee payments, client SSI or food stamp contributions, third party payments, etc. This type of offset should always be used in class rate contracting, to reflect income relating specifically to a client, or if a Purchasing Agency wants to more closely monitor the offset income. Finally, invoice offsets should be used when the Provider and Purchaser cannot anticipate a particular source of revenue on a regular basis.

The Purchasing Agency should take pains to apply consistent standards within one program type, in evaluating the offset revenue. The utilization of incorrectly characterized invoice offsets may falsely inflate the unit price for a given service. Also, it should be noted that some contracts may have both program and invoice offsets.

5. MULTIPLE SOURCES OF REVENUE

The Program Budget (Attachment B of the contract) should include all costs associated with the annual operation of a program, regardless of the type of expense. Often, however, a contract maximum obligation is less than the program's total cost because there are other payors

contracting to purchase a portion of the program. Thus, the Provider has multiple sources of revenue, in addition to offsetting revenue (which was described above). In these case, the Provider should state that it has another source of revenue which will purchase a portion of the program and list the source. State Purchasing Agencies should be aware of all purchasers, including other state entities, and sources of revenue for any one program to ensure the financial viability of the program if some of the revenue sources are not realized.

As stated earlier, the Program Budget must list all sources of revenue of the program including revenues from other Purchasing Agencies and the corresponding amount of service being purchased by them. This list should not include revenue already included as offsets. This list allows the Provider to demonstrate the funding diversification of the program. It will also allow the Purchasing Agency to assess the financial viability and stability of the program. The Purchasing Agency must determine if the mix and sources of the revenue are sufficiently stable to benefit the consumers of the program and do not jeopardize the delivery of services to the consumers.

DPS regulation 808 CMR 1.00 requires that there be only one price per unit of program services being purchased by any Commonwealth agency; specifically, any program reimbursed on a fee-for-service or accommodation rate basis may have only one price for a defined service unit. If different prices are being negotiated with different Purchasing Agencies, it is probably the case that different services are being sought and it becomes necessary for the Provider to prepare separate budgets for each type of service unit being delivered in the program.

6. COMMERCIAL INCOME

NOTE: The regulatory provisions governing the treatment of commercial income described below are currently under discussion and are subject to change. Handbook recipients will be notified as this policy evolves.

Commercial income, as defined in 808 CMR 1.00, is the difference between gross revenues and gross expenses resulting from the production of commercial products and services by clients. Gross revenues are the total of all revenues generated by the sale of labor of the clients of a program or generated by the sale of products produced or assembled through the use of such labor. Gross expenses may include:

- (a) The cost of client labor incurred in the process of producing or assembling the product and payroll taxes and fringe benefits for client wages,
- (b) The cost of supplies consumed in the production or assembling of the product,
- (c) The cost of any client wage subsidies or training inducements and payroll taxes and fringe benefits,
- (d) Any cost attributable to the procurement of contract income, including any inherent cost which may also be incidental to the procurement of such income,
- (e) The cost of facilities associated with the production activity, and/or
- (f) The amount of administrative costs allocated to the commercial enterprise.

Gross expenses are those identified under the "commercial income resources" in the Component Price Catalogue.

Current DPS policy permits the use of commercial income as an offset to defray the cost to the Commonwealth of the program through which commercial income was derived. Through the RFP, Purchasing Agencies may require Providers to price commercial products and services at a level sufficient to generate revenues to defray the costs of commercial income resources component, as well as the costs of commercial overhead resources that are allocated to other components. The methodology to determine such allocation shall be applied consistently by all Purchasing Agencies in determining offsets for programs which use client labor to produce commercial products and services.

D. COMPONENT PRICING

1. INTRODUCTION

One of the key aspects of the POS Reform Agenda developed in the late 1980's by the Office of Purchased Services (OPS) under the direction of Peter Nessen was the acknowledgement of the need for basic pricing reform in the POS system. OPS, after extensive discussions with purchasers, providers, and overseers of the POS system, determined that certain basic pricing concerns (such as the need for fairness in pricing, the need for incentives to encourage economy, efficiency and good performance, and the need to promulgate rates on a timely basis, etc.) should be addressed by means of the introduction of a prospective pricing system called Component Pricing.

2. THE CONCEPT OF COMPONENT PRICING

The Component Pricing system is based on the notion that all social service programs are composed of varying sets of functional components, some of which are common to all providers and others of which are specific to certain programs or program types. In the OPS introduction to Component Pricing, it was suggested that a single, objective pricing unit (now DPS) should develop standard, market-based prices for the total set of functional components anticipated to be used in social service programs and should publish these prices in a Component Price Catalogue. During the procurement and negotiation of contracted programs, Purchasing Agencies and Providers would build programs using these functional components, applying the cost standards (eg. cost ranges, cost formulas, or negotiated costs) specified in the Component Pricing Catalogue for the chosen components. In this manner, determinations of program price necessarily follow considerations of the functional resources necessary to serve the needs of a particular consumer population (hence the oft-used expression "price follows program"). Moreover, the resulting program price will, by virtue of the use of the market-based Catalogue, represent a "fair" price for the program being purchased. Finally, the OPS proposal stipulated that program financial review should be "bottom line driven" in that Providers would be given considerable flexibility to spend contracted dollars as necessary to deliver quality services--if a

particular provider's expenses are less than the amount budgeted using Component Pricing principles due to the Provider agency's successful control of costs, while providing an acceptable quality of services, the Provider may retain the surplus. This surplus retention ability is subject to service delivery requirements, allowable cost standards and possible limits on surplus retention.

Rather than separately pricing each unique program based on its spending in the past or expected future expenses, the Division of Purchased Services has developed standard price ranges for a list of program components. Developing a unit rate for an individual program involves negotiating a cost within the Catalogue range for each specific program component which the Purchasing Agency and Provider have used to design and build the program. The parties should negotiate a total price for the budget which reflects the resource needs and marketplace realities of the particular program. The assumptions used to calculate the total price must always reflect the expected program operational capacity, not the utilization. Detailed, step-by-step instructions for developing program rates utilizing Component Pricing principles are set forth in the Catalogue.

DPS's Pricing Bureau develops the Catalogue price ranges for the various components using market-based prices. These market prices are determined by industry surveys, surveys of individuals within certain profession and empirical studies. In addition, data on actual costs gathered from Providers' Uniform Financial Statements (UFR) will be used as one source to assess the validity of the market prices that are developed.

3. IMPLEMENTATION

Since its creation, DPS has been actively encouraging all Purchasing Agencies to adopt the principles of Component Pricing and to incorporate these principles into their procurement cycles. In addition, the use of the component pricing methodology is required for all new program development. Beginning with the recontracting period for FY'93 services, a number of Purchasing Agencies did indeed procure services using the requirement that all proposal budgets be developed using the Component Price Catalogue. At the same time, these Purchasing Agencies were advised to develop the performance measures and monitoring and evaluation procedures which are necessary compliments to Component Pricing. For FY'94 and beyond, it is expected that more Purchasing Agencies will adopt these principles and that Purchasing Agencies which have already begun using this pricing method will expand its use throughout their service systems.

As stated above, the Component Pricing Initiative is generally being implemented by Purchasing Agencies as part of their annual procurement cycles. Therefore, Providers will generally first encounter Component Pricing principles in Requests for Proposals (RFPs) issued by Purchasing Agencies. In this context, it is intended that all bidders will compete on an even basis, using the cost standards and principles contained within the Catalogue.

4. APPLYING THE COMPONENT PRICING CONCEPT

All Purchasing Agencies and Providers should familiarize themselves with the principles of Component Pricing and the operation of the Component Price Catalogue. This information is set forth in the Catalogue, which is available from the Pricing Bureau of the Division of Purchased Services.

The implementation of Component Pricing in the competitive procurement process is intended to provide all bidders with an equitable basis from which to develop and propose a price. Therefore, all component prices in a program budget must reflect at least the minimum end of the price range. If a component price exceeds the high end of the range for that component, then the Purchasing Agency may only reimburse to the maximum of the range. Should a Provider choose to exceed the high end of the Catalogue price range for a given program component in the budget proposal and it is awarded the contract, then the Provider will need to use non-Commonwealth funds for the excess (and be prepared to document how this will occur both in the proposal and in the final executed contract). If a Provider submits a budget proposal containing one or more components priced below the low end of the price ranges for those components, then that proposal should be eliminated from further consideration. Purchasing Agencies should review proposals for compliance with the Catalogue's terms. Each bidder's budget proposal for direct care personnel should be compared to the Catalogue by dividing the budgeted amount by the budgeted FTEs. The resulting amount must be within the component price range if the proposal is to qualify for further consideration. In essence, a Provider does not have to pay all employees within the catalogue price range for the particular position, but the average FTE for the component must be within the catalogue range.

Once a Provider is awarded a contract to deliver a specific service, the principle of provider self-management is emphasized. That is, the Component Pricing methodology creates a built-in incentive to control costs. If a Provider is able to provide the contracted service at a cost less than that reflected in the program budget and not sacrifice quality in the process, then that Provider retains the resulting surplus, subject to service delivery requirements, allowable cost standards and possible limits on surplus retention to re-allocate within applicable surplus accumulation standards. Please note that the application of surplus funds as an offset must adhere to all relevant regulations and cannot be applied to non-reimbursable costs (808 CMR 1.15 and 8.08 CMR 1.19 (3)).

The implementation of Component Pricing does, however, highlight the importance of a comprehensive application of performance-based contracting principles. Programs priced using this methodology should be effectively and routinely evaluated on outcome measures rather than on financial measures.

5. UPDATING THE COMPONENT PRICE CATALOGUE

The Pricing Bureau is planning to update the Catalogue's prices and/or pricing methodology at least annually. Every other year, the prices will be adjusted to reflect market changes, shifts,

or new thinking. During the years that the methodology will not be reviewed, the Pricing Bureau will update the Catalogue using one or more standard economic indicators, possibly the employment cost index (ECI). The Bureau will adjust the individual catalogue component price ranges for the increase or decrease in the ECI. The Bureau will also use the UFR as a possible validity test for the price ranges within the Catalogue. If the ranges in the catalogue and the UFR ranges are found to vary significantly, then the Bureau will review the methodology in order to ensure that the chosen methodology is responsive to all users.

It is expected that the Component Price Catalogue will be used to establish initial prices for programs that are involved in the competitive procurement process. In renewal years, generally Years 2 - 5 of the contract's duration, programs need not be completely re-priced based on updates to the Catalogue. Rather, Purchasing Agencies are encouraged to apply any available appropriated discretionary funds on a priority basis to amend contracts to adjust for changes in the Component Price Catalogue. In this manner, individual program components which fall below the low end of the Catalogue price range may discretionarily be increased in price to once again reach the component price low range.

Purchasing Agencies should also make contract adjustments during Years 2 - 5 to reflect general inflationary pressures on Provider agencies, to the extent that Purchasing Agencies appropriation levels can accommodate such inflation-based increases. Such increases should be based, to the extent possible, on inflation information and guidance materials published by the Division of Purchased Services. These inflation based adjustments may take the form of "across-the-board" increases to contract maximum obligations, or they may be more tailored to reflect the relative need of a particular program component or set of components.

E. AMENDING BUDGETS

During the life of a contract, conditions under which the contract was executed may change, requiring a modification to the budget. A Purchasing Agency or a Provider may seek an adjustment to an authorized price through the formal amendment process if one of the following conditions occurs:

- * Operating costs change substantially, as a result of either regulatory or statutory requirements.
- * The budget of the Purchasing Agency substantially increases or decreases resulting in a change to the type or quantity of the services purchased.
- * Offsetting income projected in the calculation of the original calculated price is substantially different from actual offsetting income.

- * A program experiences increases in operating costs which were unexpected and beyond the control of the Provider and failure to amend the program price would threaten client safety and well-being.
- * Actual program utilization is substantially different from projected program utilization used in the calculation of the authorized price.
- * Actual costs are substantially different from those anticipated in the calculation of the authorized price.

The terms of the budget and/or unit price adjustment must be negotiated by the designated representatives of the Purchasing Agency and the Provider. The fiscal specifications of the contract amendment must be mutually agreed upon by both parties prior to the execution of the amendment. Following price negotiations, the Provider should submit to its Purchasing Agency, with an informational copy to any secondary purchasers, an amendment form and a price calculation form reflecting the agreed upon changes and prepared in accordance with the Purchasing Agency's instructions.

For negotiated unit rate contracts, variance which occurs resulting in substantial net changes should be brought to the Purchasing Agency's attention by the Provider so that discussions can take place concerning rate adjustments. For cost reimbursement contracts, budget category variances of 10% or more require formal amendment, as described earlier in Section B.

F. PRICE/RATE APPROVAL

1. THE DPS PRICE APPROVAL PROCESS

DPS certifies the prices for most purchased social and rehabilitative services. Specifically, the DPS price approval process applies to all state Purchasing Agencies subject to 808 CMR 1.00 with encumbrances for contracts in object codes MO1, MM1, MO3, MM3, MO5 and MO6. DPS will automatically certify the prices for contracts in this category that have been entered into MMARS (the state's accounting system).

Purchasing Agencies have the authority to directly negotiate contracts and prices, except RSC class rates, with Providers. The Division assumes, by the completed execution of a negotiated contract or renewal agreement, that the contract terms and budget and price determination are agreeable to both parties and are in keeping with applicable DPS pricing and cost allowability standards as set forth in DPS regulations. The price entered on the Service Request in MMARS and on the contract itself is the interim price until DPS has completed its certification process, at which time the interim price becomes the authorized price. The interim price automatically becomes the authorized price unless the Division notifies the Purchasing Agency otherwise within two months of the date that the contract was filed with the Comptroller's Office. Prices are effective as of the relevant "contract start date" (see Chapter V), unless otherwise specifically stated or limited by law.

a. Automated Price Approval Process

Every quarter, DPS will generate a MMARS transaction report of all purchase-of-service contracts filed with and approved by the Comptroller for use in producing a rate certification report. The Division will ensure that state Purchasing Agencies have completed all the fields required for rate approval purposes. In addition to the standard fields required by the Office of the Comptroller, DPS has mandated that Program Code, Service Code and Service Unit fields in MMARS be completed. This requirement applies to all Service Contract (SC), Service Modification (SM), and Master Service Agreement (MSA) Table MMARS entries. The Division will withhold price certification for any contract listed on the MMARS transaction report which has a missing or incorrect program code, service code or service unit fields. The Division will notify the Purchasing Agency in writing of any such problems and the Purchasing Agency will have up to 30 days after receipt of written notification to make corrections. The Division will take steps to advise the Office of the Comptroller that the price has not been certified if the Purchasing Agency does not make corrections after the 30 days.

DPS will submit the price certification report quarterly to the Comptroller's Office. The Division will forward price certifications on contracts to purchasing agencies or providers only if requested in writing.

Purchasing Agencies must submit requests to update the Program Code, Service Code and Service Unit Table to the appropriate oversight agency with a copy to the Division.

b. Manual Price Approval Process

The Division will manually approve prices when the Purchasing Agency is unable to enter the transaction into MMARS. The Purchasing Agency must forward the request to the Pricing Bureau. The request must include all applicable accounting information, including Vendor Name, Vendor Code, Program Code, Service Code, Service Unit, Unit Price, Maximum Obligation and Duration. The Pricing Bureau will review the request and forward it to the Assistant Commissioner of DPS for signature. The Pricing Bureau will then forward a copy to the Office of the Comptroller and to the Purchasing Agency.

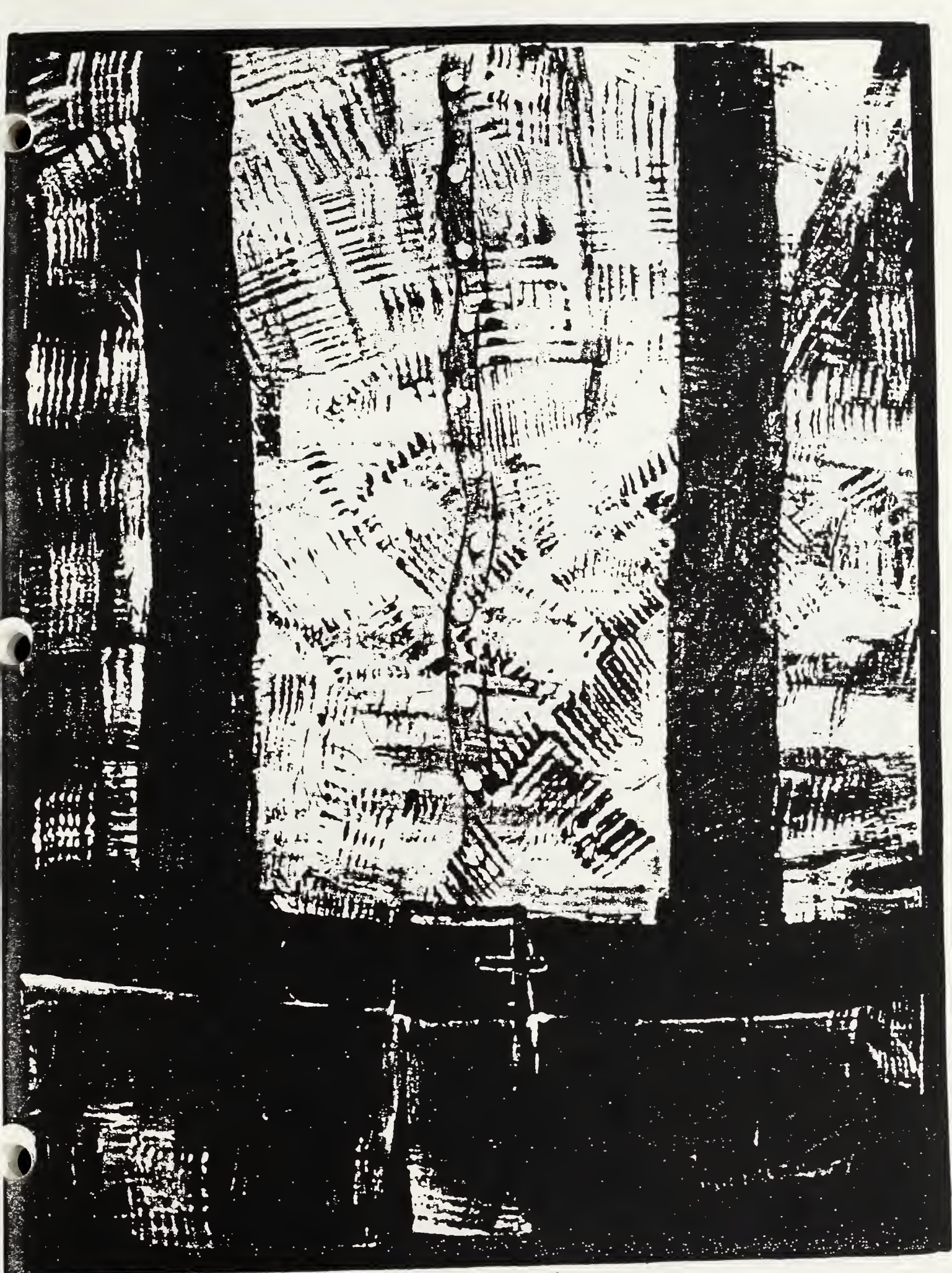
The Division will also manually approve prices for individualized services at the request of a Purchasing Agency. For example, a Purchasing Agency may request a rate for job coaches. These are services performed by individuals, but the generalized task remains the same across the service delivery system. The Purchasing Agency must describe the service, state that there is no alternative price or methodology, and suggest a methodology and/or suggested price for the service. The Pricing Bureau will review the request and forward it to the Assistant Commissioner for signature. The Pricing Bureau will then forward a copy to the Comptroller, the Purchasing Agency, and to EOHHS and all Purchasing Agencies, if applicable.

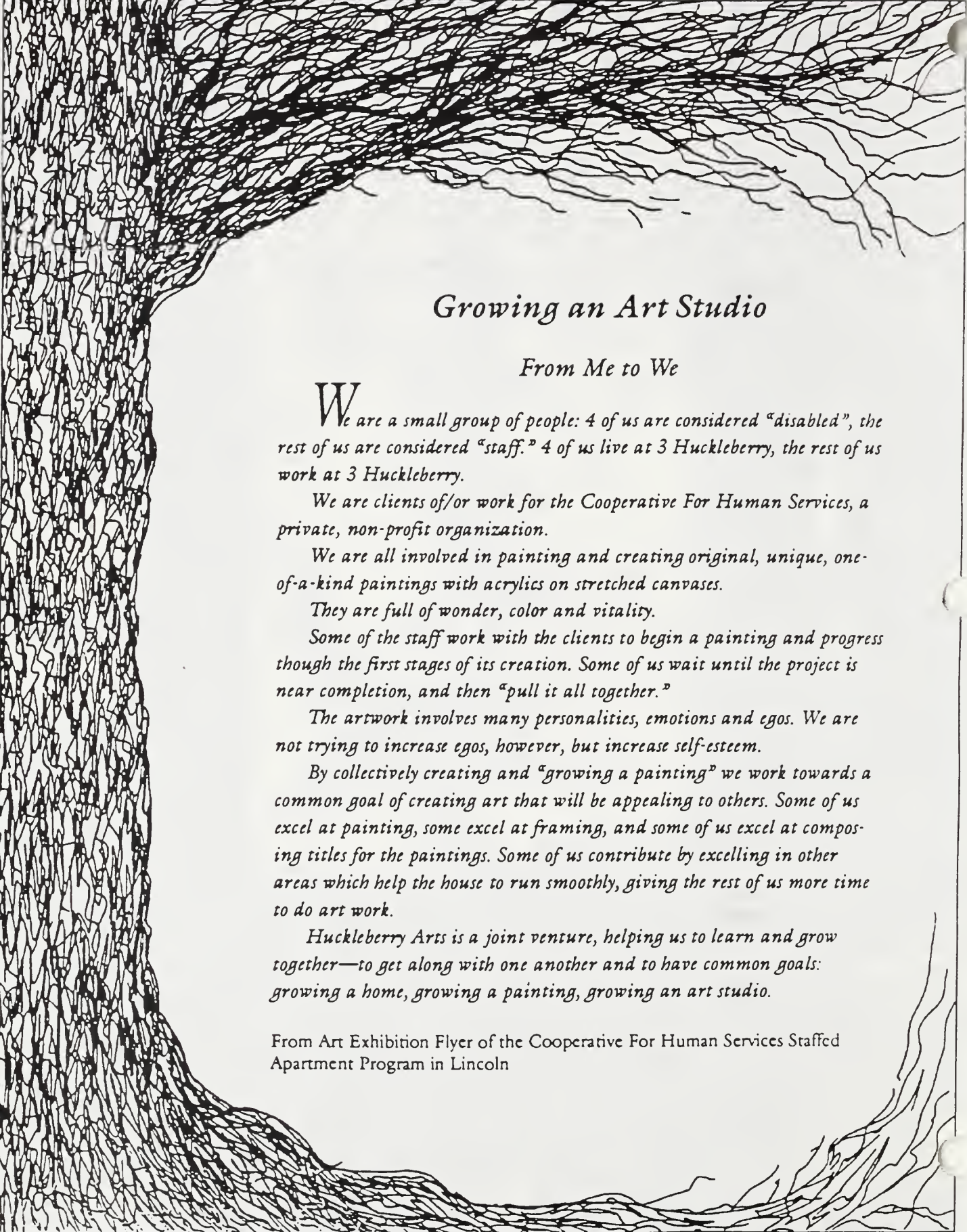
The Pricing Bureau will also approve prices for programs in which the methodology used is something other than component pricing, cost reimbursement or class rates. The Purchasing Agency must describe the service and suggest an alternate methodology and/or suggested price for the service. The Pricing Bureau will review the request and forward it to the Assistant

Commissioner for signature. The Pricing Bureau will then forward a copy to the Office of the Comptroller, the requesting Purchasing Agency, EOHHS and all other Purchasing Agencies, if applicable. It is strongly suggested that the Purchasing Agency meet with DPS staff to discuss such alternative methodologies.

2. RATE SETTING COMMISSION - CLASS RATES

The RSC establishes rates for all services that are reimbursable under Title XIX of the Social Security Act. Generally those rates are classified as a class rate, which is a single rate or series of rates paid to all Providers who provide a given service. The RSC establishes the class rate by analyzing cost data from cost reports pertinent to a particular service. The rate is "approved" upon promulgation of the applicable RSC regulation. Purchase-of-service contracts with non-negotiated class rate budgets need only cite the current RSC regulation. (Appendix 9 lists the services for which the RSC establishes class rates and the corresponding regulation.)





Growing an Art Studio

From Me to We

We are a small group of people: 4 of us are considered "disabled", the rest of us are considered "staff." 4 of us live at 3 Huckleberry, the rest of us work at 3 Huckleberry.

We are clients of/or work for the Cooperative For Human Services, a private, non-profit organization.

We are all involved in painting and creating original, unique, one-of-a-kind paintings with acrylics on stretched canvases.

They are full of wonder, color and vitality.

Some of the staff work with the clients to begin a painting and progress through the first stages of its creation. Some of us wait until the project is near completion, and then "pull it all together."

The artwork involves many personalities, emotions and egos. We are not trying to increase egos, however, but increase self-esteem.

By collectively creating and "growing a painting" we work towards a common goal of creating art that will be appealing to others. Some of us excel at painting, some excel at framing, and some of us excel at composing titles for the paintings. Some of us contribute by excelling in other areas which help the house to run smoothly, giving the rest of us more time to do art work.

Huckleberry Arts is a joint venture, helping us to learn and grow together—to get along with one another and to have common goals: growing a home, growing a painting, growing an art studio.

From Art Exhibition Flyer of the Cooperative For Human Services Staffed Apartment Program in Lincoln

CHAPTER V: THE CONTRACTING PROCESS

This chapter provides a description of the purchase-of-service contracting process, including negotiations, the documents needed to execute a contract, the authorization procedures necessary prior to commencement of services, and billing and payment procedures. Once a Provider has been selected in accordance with the procurement procedures outlined in Chapter II and has met the applicable standards and requirements outlined in Chapter III, the Purchasing Agency and the Provider enter into contract negotiations. The procedures for executing contract renewals and contract amendments are somewhat different and are covered in later chapters.

The Purchasing Agency assigns one or more contract officers to conduct the negotiations, administer the contract and monitor service delivery. Once negotiations have been completed, a contract package is completed and signed by the Purchasing Agency and the Provider to document the final terms agreed upon during negotiation. By signing the contract, both parties acknowledge and accept the terms contained therein, including the price or rate for the services. If a Provider does not agree to the terms stated in the contract, the Provider should not enter into the agreement and begin delivering services, because the terms of the contract are binding and no right of appeal is available.

The contract package consists of standard forms and attachments issued by the Division of Purchased Services (DPS). The Purchasing Agency is then responsible for obtaining the necessary authorizations for the contract and notifying the Provider. Once the contract has been approved, the Provider can begin billing for services rendered.

A. CONTRACT NEGOTIATIONS

The programmatic and fiscal terms of the initial contract are negotiated by the designated officers for the Provider and the Purchasing Agency. Usually such negotiations will occur through face-to-face discussions. Since these negotiations form the foundation of a five-year agreement, it is important for both parties to be well informed. Other program, fiscal, administrative and/or legal staff may be requested to participate in the discussions. The primary contractual terms for all POS contracts are contained in the Master Agreement and are not negotiable. (See Chapter III for a description of the Master Agreement and Appendix 4 for a copy of Attachment 1: General Conditions of the Master Agreement.) Any programmatic and fiscal terms that are negotiated and documented in the standard service contract itself should not conflict with the contractual terms in the Master Agreement. Purchasing Agencies are encouraged to consult their legal counsel for guidance in negotiating appropriate terms.

In the case of Providers selected through the RFP process, the scope of the programmatic and fiscal contract negotiation is limited to "terms and conditions not specifically addressed in the RFP and the Provider's written proposal and/or (to) matters which do not significantly alter the terms of the written proposal", as governed by 808 CMR 2.07(3). This means that the terms of the RFP and the Provider's proposal may be further defined but may not be substantially altered through the negotiation process. In addition, the amount of the Provider's contribution of unrestricted funds to defray the cost of services cannot be negotiated, unless the Provider volunteers to do so. Additional guidance on pricing and negotiating program budgets can be found in Chapter IV.

If the Purchasing Agency cannot satisfactorily negotiate the programmatic and fiscal terms of agreement with the first prioritized bidder within a reasonable period of time, then it may terminate discussion with that bidder and commence negotiations with the next bidder on the prioritized list resulting from the proposal evaluation process.

B. CONTRACT PREPARATION

Once negotiations have been successfully completed, a contract must be prepared. Purchasing Agencies and Providers are required to use DPS's Standard Service Contract or other DPS authorized agreement forms to document the specific programmatic and fiscal contractual terms that have been negotiated, in accordance with the procedures described in section A above. The Purchasing Agency is responsible for forwarding the appropriate forms and instructions to the Provider. (See Chapter IX for a discussion of the other types of agreements used in the POS system.) The standard terms and conditions that apply to all purchase-of-service agreements are contained in the Master Agreement.

The Standard Service Contract form was developed by DPS to meet the requirements for written agreements set forth in 808 CMR 2.07(4) and is the most commonly used contract form in the POS system. The complete Standard Service Contract consists of the Standard Service Contract Form and Attachments A, B, and C, as described below:

Standard Service Contract Form (Cover and Signature Pages)

These two pages summarize the specific programmatic and fiscal terms that are pertinent to the particular contract. All required information must be completed in accordance with the instructions issued by DPS. The standard duration of the contract will be five years. This duration may be less than five years only if so specified in the RFP, the award letter or during negotiations, but in no case may the duration exceed five years. See Chapter II for a discussion of contract duration. The contract must be signed and dated by authorized signatories of the Provider and the Purchasing Agency. Documentation of the person(s) authorized to sign on behalf of the Provider must be contained in Attachment 3 of the Master Agreement. The head of the Purchasing Agency may delegate the authority to sign contracts to a subordinate, upon filing a written delegation form with the Office of the Comptroller.

The Purchasing Agency may also choose to execute one Standard Service Contract for multiple programs with a Provider. In this case, a Multiple Program Addendum Page must be attached to the Standard Service Contract form as well as a set of attachments for each program funded through the contract. A complete Attachment A and B must be included for each program; a separate Attachment C is required for each program, if reporting requirements, applicable statutes, regulations and/or policies differ.

Attachment A: Program Description

The program specifications are detailed in Attachment A and must reflect the complete and final agreement of the parties subsequent to award and contract negotiation. The Attachment A consists of five sections: I: Program Narrative & Service Elements, II: Client Profile, III: Desired Program Outcomes and Program Assessment, IV: Provider Profile, and V: General Program Specifications. Since the same format is used for soliciting proposals, the contract Attachment A usually consists of the narrative portion of the proposal submitted by the Provider. Any modifications to the original proposal submission can be incorporated either by substituting revised pages for the sections that have been changed or by appending supplemental pages that describe the changes to the original proposal.

The Attachment A must address as fully and accurately as possible the scope and nature of performance criteria which have been agreed upon by both parties. These standards and criteria should be quantifiable in a way that allows the measurement to be related to the budgeted costs so that it will be possible to compute the actual unit cost and so that the Provider's productivity and performance in relation to desired client and/or program objectives can be assessed.

Attachment B: Fiscal Conditions

The fiscal basis of the contract is documented in Attachment B. For negotiated unit rate or cost reimbursement contracts, the standard Attachment B consists of the Fiscal Conditions cover page, the two Program Budget pages, and the Unit Rate/Maximum Obligation Calculation page. For non-negotiated rates (i.e., class rates) set by the Rate Setting Commission or by the Division of Purchased Services, the standard Attachment B consists of the Fiscal Conditions cover page and the Non-Negotiated Unit Rate detail page. If applicable, a Capital Budget page may also be incorporated into an Attachment B in order to document the purchase of furnishings and equipment valued at over \$500 for the contract. Please review Chapter IV for more details about pricing and budget negotiations.

For negotiated unit rate budgets, the Attachment B shall specify the unit rate(s), its effective date, a definition of the service unit, any limitations on billable units, and the maximum obligation of the contract. A program budget, including offsets, is negotiated and submitted as part of the Attachment B to document the basis for the rate.

For cost reimbursement budgets, the Attachment B shall incorporate a detailed line item program budget, which will be the basis for calculating the maximum obligation and for reimbursement purposes. Wherever possible, a service unit should be defined and measured, though not necessarily linked directly to reimbursement.

For "class rate" budgets, the Attachment B shall specify the rate(s) in effect at the time the contract is being executed, a definition of the service unit, anticipated invoice offsets, any limitations on billable units, and the maximum obligation of the contract. A program budget is not submitted.

In all cases, the Attachment B should list the applicable rate regulation and specify the method and scheduling of payments. Purchasing Agencies are required to identify any federal funds that will be used to support the contract by listing the relevant Catalog of Federal Domestic Assistance (CFDA) number(s) on the Attachment B. The CFDA number is a unique reference number for each federal grant, that allows the Provider and the Purchasing Agency to look up the specific requirements associated with a particular source of federal funds. A discussion of the regular and ready payment options is included in Section D of this chapter. Other payment arrangements may be individually negotiated as long as the agreement remains in compliance with the Master Agreement, state finance law and other applicable regulations.

Attachment C: Reports and Applicable Statutes, Regulations, and Policies

The Purchasing Agency must prepare an Attachment C, which lists all material program and agency specific requirements with which the Provider must comply. The Attachment C can be specific to the contract under negotiation or can be developed for a program type and then applied to all contracts under that program type. In general, the requirements that apply to a particular program type would have been specified in the RFP, and the Attachment C is a summary of that information. Revisions to the standard program requirements can be negotiated on a contract specific basis. All regular reports required of the Provider during the term of the contract must be listed on the Attachment C. In addition, all specifically applicable statutes, regulations, and written policies affecting the provision of services under the contract must be identified in Attachment C. Requirements that are already included in the General Conditions of the Master Agreement should not be listed again in the Attachment C. Do not include any statutes, regulations, policies or reports not specifically required or applicable to the contract.

C. CONTRACT APPROVAL PROCESS

There are three levels of approval that are required for a Purchase of Service contract:

1) authorization of services, 2) approval of the actual contract, and 3) certification of the rate. Each of these approvals comes from a different oversight authority. The Purchasing Agency is responsible for taking the necessary steps to garner these approvals and to notify the Provider.

In all cases, the Purchasing Agency shall forward a copy of the fully executed contract to the Provider in a timely fashion. The specific procedures for each approval step are summarized below.

1. SERVICE AUTHORIZATION: THE "SERVICE REQUEST" (SR) PROCESS

The Service Request is the mechanism by which the Purchasing Agency enters the fiscal information for the contract into the Massachusetts Management Accounting and Reporting System (MMARS), which results in funds being pre-encumbered, or reserved, for that contract. The SR printout that is generated by MMARS is also used to document the authorization of services to be delivered under the contract. Authorization is accomplished by having the SR printout signed by authorized signatories for the Purchasing Agency and its secretariat, and then filed with the Office of the Comptroller. The Purchasing Agency Head and the Secretary may delegate signatory authorization. In recent practice, most Secretariats have delegated their service authorization role directly to the Purchasing Agencies under their authority. Further information about delegation of signatory authority is contained in Chapter IX.

The signatures on the SR signify that the services specified in the contract have been authorized, that funding is available (subject to final appropriation), and that the Provider may begin to provide services in conformance with the 'contract start date'. The 'contract start date' is determined to be the date of the Secretary's signature on the SR or the start date listed on the contract, whichever is later.

NOTE: No contractual obligation will be incurred or reimbursed for any services that are rendered prior to the Secretary's signature date on the SR. Providers must be advised that although the contract document itself contains a start date, state statute (M.G.L. c.29, s.29B as contained in Appendix 2) prohibits payments for any services provided prior to the specific authorization.

If such authorization occurs after the start date specified on the contract, the Purchasing Agency may request a waiver, in writing, in accordance with the provisions of 808 CMR 2.13(3)(b) for retroactive authorization up to fifteen days. Such a waiver must be approved by the Secretary in charge of the Purchasing Agency and by the Assistant Commissioner of the Division of Purchased Services.

Purchasing Agencies may also choose to enter one SR (called an "open order SR") for a group of contracts. In this case, the authorization procedure specified above still occurs, however, the specific contract information must be entered by the Purchasing Agency on MMARS via the Service Contract (SC) transaction as part of the contract approval process. More detailed instructions about the operation of MMARS and the SR and SC contract transactions are contained in MMARS Manuals, available from the Office of the Comptroller.

2. CONTRACT APPROVAL

Once the authorization for services has occurred through the SR transaction, the Purchasing Agency must promptly file with the Office of the Comptroller a complete DPS Standard Service Contract package (as described in Section B of this chapter) and any applicable supporting documentation. The Comptroller will confirm that the contract documents match the information entered on the SR and then enter its approval of the contract on MMARS. MMARS automatically confirms that sufficient funds are available to support the maximum obligation specified on the contract and encumbers the necessary funds through the Service Contract (SC) transaction.

The Purchasing Agency must send a copy of the approved contract to the Provider. In addition, DPS encourages Purchasing Agencies to include the SR printout or SC form, which indicates the specific sources and amounts of funding being used to support the contract.

3. CERTIFICATION OF THE RATE

The Division of Purchased Services is responsible for certifying the rates, or, in the case of cost reimbursement contracts, the maximum obligation, for all social service programs, excluding services that are reimbursable under Medicaid (Title XIX of the Social Security Act) in accordance with its pricing regulation - 808 CMR 1.00. The DPS rate certification process is based on the information entered in MMARS during the authorization and/or approval steps. The rate negotiated by the parties and specified on the contract is the interim rate until certified by DPS as the authorized rate. In the case of rates for c. 71B approved private schools for special education services, the authorized price is set annually by DPS for all payors in accordance with the specific procedures in 808 CMR 1.08.

The Rate Setting Commission (RSC) establishes rates for certain social services on a class rate basis and for all Title XIX reimbursable services. These rates are generally set in advance by the RSC and promulgated through regulations, usually on an annual basis. Thus no contract specific rate approval process occurs; the relevant RSC regulation is simply cited on the contract. See Appendix 9 for a list of RSC regulations which establish rates used in POS programs.

The purchase-of-service rate certification/setting procedures are described in more detail in Chapter IV.

D. CONTRACT PAYMENTS

Payment to Providers for services rendered after the contract start date are processed through the MMARS system in accordance with instructions issued by the Office of the Comptroller. No payment can be authorized by the Comptroller until all of the steps described in Section C above have been completed. Providers should submit the required invoice documentation in

accordance with the schedule outlined below, but in no case later than thirty days after the end of the annual contract period to ensure timely payment.

1. PAYMENT SCHEDULE OPTIONS

For the purchase-of-service system, there are two payment options: Regular Payment and Ready Payment.

a) **Regular Payment**: Once a month, generally within 10 - 15 days of the end of the previous month, a Provider submits a Payment Voucher (PV) and supporting documentation for services rendered the previous month to the Purchasing Agency. The Purchasing Agency reviews the documents and enters the PV onto MMARS and schedules the payment, usually within 15 to 30 days. Once a week the Comptroller's Office prepares a list of all scheduled payments (called "the warrant") for approval by the Governor's Council. Checks for the warrant are then issued and mailed on Friday by the Treasurer's Office.

b) **Ready Payment**: The Ready Payment System (RPS) is operated by the Comptroller in accordance with regulation 815 CMR 3.00. Ready Payment offers eligible Providers an opportunity for bimonthly automatic payments. Ordinarily, payments will occur on the fifteenth and the thirtieth of the month in which services are being delivered and before billing for services occurs. The Provider then submits a PV within ten days of the end of the previous month to the Purchasing Agency. The PV is reconciled against the total of the estimated payments made for that month. The reconciliation amount will then be added or subtracted from the next month's estimated payment. A Provider's eligibility to participate in the RPS for any given year is determined by its Principal Purchasing Agency, usually during the annual prequalification process. Once eligible, the Provider can select which contracts to include in the Ready Payment option. Providers are referred to 815 CMR 3.00 or their Principal Purchasing Agencies for more details about the requirements of the Ready Payment System.

2. INVOICING PROCEDURES

Although invoicing practices vary by department, there are a number of standardized features which are common to all Provider invoice submissions. Invoices for MM subsidiary type services (social, special education, health, medical, mental health, mental retardation, rehabilitative, habilitative, etc.) are normally prepared and presented on a monthly basis. The monthly submission of an invoice generally consists of a completed standard Payment Voucher (PV) form accompanied by either a Service Delivery Report (SDR), indicating services delivered on a unit rate basis, or by a Monthly Expenditure Report (MER), displaying expenditures based on a negotiated line item budget.

Several Secretariats have standardized billing forms which must be used by Providers for all contracts with Purchasing Agencies in that Secretariat, unless a specific exemption has been obtained due to extenuating circumstances. All invoice documentation must contain clear and

concise information which will enable Purchasing Agencies to verify service delivery and conduct an audit, if necessary. Basic items to be included as part of all documentation are client indicator, service type, service date or a rate charge. Additionally, any offsetting revenue to reduce the maximum obligation to the Commonwealth, such as third-party payments, sliding fee scales or other co-payments should be reported where appropriate. Specific requirements of the proper invoicing process for the department(s) with which the Provider contracts can be obtained by contacting the Purchasing Agency's fiscal office or contracts office for guidance.

3. DISBURSEMENT OF PAYMENTS

Payments are sent to the Provider by mail or directly deposited into the Provider's bank account. Additionally, the option to participate in electronic funds transfer between the Treasurer's Office and the Provider's bank is available, except for contracts on Ready Payment. Further information can be obtained by contacting the Electronic Funds Transfer Unit in the State Treasurer's Office at (617) 367-3900. Any Provider wishing to have direct deposit must request this in writing to its Principal Purchasing Agency, accompanied by a completed W-9 form, in order for the Office of the Comptroller's vendor file to be updated.

Note: Both direct deposit and wire transfer will occur on all Commonwealth payments for a Provider and not on a contract-specific basis, except the wire transfer exclusion for Ready Payments as previously mentioned.

4. LATE PENALTY INTEREST

Chapter 611 of the Acts of 1987 directed the Office of the Comptroller to adopt regulations which provide for the payment of interest to Providers on invoices not paid within 45 days. The resulting regulation, 815 CMR 4.00, contains the details as to when interest payments are appropriate. Essentially, any accurate and complete invoice received by the Commonwealth, as evidenced by a date stamp, not paid within 45 days of receipt, is eligible for late penalty interest. Payment date for these purposes is defined as having made a "warrant." The warrant is a listing of payments scheduled to be made any given week, which must be approved by the Governor's Council, usually on a Wednesday. The actual rate of interest to be paid for the penalty is established by the Secretary of Administration and Finance, semiannually, based on the discount rate charged by the Federal Reserve Bank on January 1 and July 1 of each year.

The late penalty interest regulation contains specific procedures which must be followed, as well as some exceptions which should be reviewed in order to determine if they apply to any given situation. A Provider must specifically request late penalty interest for a particular payment that has been delayed. Payments that have been delayed pursuant to the delay and/or disallowance of payments procedures specified in the General Conditions of the Master Agreement are not eligible for late penalty interest.

CHAPTER VI: CONTRACT RENEWAL

Every multiple year purchase-of-service contract is subject to annual renewal by the Provider and its Purchasing Agency and to annual reauthorization of funding. If one of the conditions for renewal cited in section A below is not met or if Negotiation Impasse occurs during renewal negotiations, then a formal termination process is normally invoked, in lieu of renewal.

In executing the original multi-year contract it is anticipated that both parties will maintain the agreement on those terms for its duration, subject to the constraints imposed by state finance law and the provisions of the Master Agreement. The renewal process is, however, an opportunity for the Purchasing Agency and/or the Provider to review the terms of the contract agreement and potentially renegotiate the terms for the renewal year, although there are limitations to the scope of changes, including funding, that may be negotiated. Thus, the terms of the renewal agreement will take one of two basic forms: a) straight "rollover", by which we mean that the contract is renewed by the operation of its existing terms, or b) renewal with amendment, in which case the Purchasing Agency and the Provider negotiate and mutually agree to make adjustments to the programmatic, fiscal, and/or reporting terms. In some cases, renewal with amendment is required for one or both parties to remain in compliance and/or meet the conditions for renewal cited below.

This chapter provides a description of the process that must occur in order to successfully renew a POS contract, including the conditions for renewal, the documents needed to execute a renewal, and the authorization procedures. The chapter also discusses renewal negotiations, pricing adjustments and the Negotiation Impasse process.

A. CONDITIONS FOR RENEWAL

In accordance with 808 CMR 2.10, contract renewal is "automatic" for the period of time stated in the original contract agreement, subject to certain conditions and procedural requirements. By "automatic" we mean that it is a built-in assumption that the contract will continue in the subsequent years. However, certain conditions must be met and some specific routine activities must occur prior to the actual execution of the renewal document.

The conditions for renewal include:

1. The duration of the renewal agreement falls within the time period established by procurement cycle limits. Generally up to a five-year total duration is permitted. (See Chapter II for a discussion of contract duration and procurement cycle limits.)

2. Funds for the renewal agreement have been or are expected to be appropriated by the Commonwealth and/or federal government. Since most renewal preparation activity occurs prior to final appropriation, in practice Purchasing Agencies must base the renewal decision on the House 1 Budget, as proposed by the Governor. Should final funding levels decrease, Purchasing Agencies may need to terminate or negotiate amendments to the renewal agreements in order to bring their Agency's appropriation into balance. In this circumstance Purchasing Agencies must proceed in accordance with the appropriate provisions of the General Conditions of the Master Agreement.

3. The Provider's performance under the contract to date has been satisfactory, as evidenced by monitoring and annual reviews. For the purposes of this section, the Provider's performance can only be deemed satisfactory if the Provider is in compliance with all applicable statutes, regulations and policies specified in the Master Agreement and the service contract. As a matter of practice, performance is assumed to have been adequate to meet this condition for renewal unless the Purchasing Agency has sent formal communication to the contrary in a timely manner.

4. The Provider remains prequalified to do purchase-of-service business in the Commonwealth. In other words, the Provider must have received an acceptable prequalification status, as determined by the procedures specified by the Secretariat, from its Principal Purchasing Agency (PPA) prior to executing the renewal agreement.

If a Purchasing Agency determines that the Provider's performance has not been satisfactory, it has two options: renew the agreement with conditions for improving performance, or terminate the agreement in accordance with the applicable termination provision as specified in the General Conditions of the Master Agreement. If the Purchasing Agency wishes not to renew a contract whose total duration has not yet expired, then it MUST issue a termination notice in a timely manner. Purchasing Agencies are encouraged to consult their Legal Counsel prior to proceeding with any termination process. In all cases of termination, the Purchasing Agency must retain adequate documentation of the basis for termination on file with the contract.

B. RENEWAL NEGOTIATIONS

1. STANDARD RENEWAL

In a standard renewal ("rollover") there is no significant negotiation process because the terms of the existing agreement are simply being carried forward. The only change that may occur within this category is the upward adjustment of the unit rate and/or maximum obligation to provide for inflation, when such funding is appropriated to the Purchasing Agency. Annualization of partial year or late start contracts also falls into this category, if no other changes are included.

2. RENEWAL WITH AMENDMENT

If the Purchasing Agency or the Provider wishes to modify any of the basic programmatic or fiscal terms of the existing agreement for the renewal year, then a negotiation process ensues. For substantive changes to the existing terms that must be mutually discussed and agreed upon, the negotiations shall be conducted by the designated officers for the Provider and the Purchasing Agency. In such cases, DPS encourages the parties to engage in face-to-face discussions, whenever practical. Depending on the nature of the changes being proposed, it may be necessary to have staff with both programmatic and fiscal expertise involved in the process to discuss, evaluate, and modify the performance-based outcomes and/or the budget. In preparation for contract renewal negotiations, Purchasing Agencies should also review the Provider's most recent UFR to better understand actual cost versus projected expenses.

Renewals involving an increase or decrease in the number of units purchased may or may not require a formal negotiation. In many cases, such as updates to regulatory citations in Attachment C, the Purchasing Agency can simply notify the Provider of the changes. By signing the renewal the Provider acknowledges and accepts those changes.

A renewal with amendment is subject to the requirements and limitations on contract amendments, as set forth in 808 CMR 2.09. In all cases, the scope of negotiations is limited to those changes which do not "constitute so substantial a change from the specifications of the original procurement and award as to warrant a new procurement" (808 CMR 2.09(1)). In other words, if the Purchasing Agency determines that the changes being proposed would alter the terms of the original agreement so fundamentally that the agreement would no longer reflect the procurement on which the agreement is based, then the Purchasing Agency may not execute such a renewal. The Purchasing Agency shall either narrow the scope of proposed changes or initiate new procurement.

In addition, 808 CMR 2.09(3) establishes limits on increases to the maximum obligation of a contract without further procurement. In essence, the cumulative total increase over the five-year duration of a contract is limited to 50% of the originally stated annual maximum obligation. In any one year, an amendment (or renewal with amendment) is limited to an increase of 25% over the previous annualized maximum obligation. Proposed increases beyond those limits are to be awarded as a result of a new procurement process. DPS will also consider a waiver of these limitations, upon submission of a request with adequate justification. (The procedure for waivers is described in Chapter IX.)

Some examples of modifications that generally are within the scope that is permissible under regulation 808 CMR 2.00 include: updating of information, refinement of basic program operations, further definition of terms, adjustment of outcome expectations to reflect changes in clients, increased or decreased purchase under the contract, adjustment of operating capacity, transitioning a start-up contract into full program operation, etc.

3. NEGOTIATION IMPASSE

If the Purchasing Agency and Provider engage in negotiations, as described in subsection 2 above, and fail to reach agreement on programmatic content, utilization, and outcomes at a defined price, then the negotiating parties may terminate the contract renewal negotiations by following the negotiation impasse procedures specified in 808 CMR 1.07(6). This provision of the regulation requires that the parties execute and sign an impasse document, which lists the terms, conditions and price, or maximum obligation, of the last offer of the Purchasing Agency. The Purchasing Agency must submit the impasse document to its agency head, or designee, and to the Division of Purchased Services.

The agency head, or designee, may resume negotiations with the Provider or may determine that the negotiations have been concluded. In the latter case, the Purchasing Agency must forward a formal termination notice to the Provider under the applicable provision of the General Conditions of the Master Agreement. The Purchasing Agency may then seek another Provider to deliver the program that has been terminated, but must follow procurement procedures (most likely an emergency sole source) and meet the additional conditions specified in the regulation. Provisions for Provider appeal after impasse and award of the contract to a new Provider are defined in 808 CMR 1.07(7).

C. THE RENEWAL AGREEMENT

Upon notification of renewal or upon successful negotiation of renewal with amendment, a Service Contract Renewal or other DPS authorized agreement form must be prepared. (See Chapter IX for a discussion of other forms of agreement used in the POS system.) The complete Service Contract Renewal consists of the Renewal form, plus the Attachment A Addendum: Program Narrative Update and the Attachment B: Fiscal Conditions. An Attachment C may also need to be included if there are modifications to the requirements specified therein.

The original contract from Year 1 is the reference point for all renewal year agreements, and thus should remain easily accessible to the Provider and the Purchasing Agency. Both parties should review the original contract and any previous renewal documents annually to ensure that the current renewal agreement adequately documents any changes to the existing terms.

The DPS renewal forms are described below:

Service Contract Renewal (Cover Page including signatures)

This page summarizes the basic terms of the current and the renewal year agreements. All required information must be completed in accordance with the instructions issued by DPS. This page must be signed and dated by authorized signatories of the Provider and the Purchasing Agency. If a change in the Provider's signatory has occurred since the previous

year, the Provider must notify its PPA to initiate an update. (Information on signatory authorization is contained in Chapter IX.)

If the renewal is for a service contract with multiple programs, then a Multiple Program Addendum page, as well as the applicable attachments for each program funded through the contract, must be attached to the Service Contract Renewal form.

Attachment A Addendum

Beginning with FY'94 renewal agreements, the Attachment A Addendum form will be a required part of the contract renewal package. The Division of Purchased Services has developed a revised Addendum form that corresponds to the five-year contract cycle and can be carried forward on a yearly basis.

The Addendum consists of a summary page to be completed at the end of Year 1 of the contract, which is carried forward in the renewal agreements for Years 2 - 5. The first part of this Attachment A Addendum will update the following information:

- * Summary of the program narrative/target population/service elements.
- * Attachment of staffing patterns/caseload information.
- * Statement of negotiated outcome measures/targets for the next year of the contract.
- * Summary of fiscal and budget elements.
- * Any significant change in the scope of work during the first year.

Contract renewal in Years 2 - 5 will build on the summary information presented at the end of Year 1 and will be documented on the same form as follows:

- * Any negotiated changes in the program narrative, including outcome measures/targets for the next year. This may also include changes in the measurable criteria that are used to quantify and relate cost data for computation of the actual unit cost and for evaluation of productivity and performance.
- * Any negotiated changes in the composition of the program resources (and corresponding components in the budget).

If this is a standard (i.e., rollover) renewal with no substantive changes between fiscal years, Providers will simply check the rollover option on the Addendum form and return it with the signed renewal agreement to the Purchasing Agency. The same Attachment A Addendum will also be used in the amendment process to reflect any substantive changes to the program that have been negotiated in an amendment. Thus, the Attachment A Addendum will document the cumulative adjustments to the program, while reflecting the current terms of the agreement.

Attachment B: Fiscal Conditions

The fiscal basis of the renewal agreement is documented in Attachment B. The form is the same as used for the Standard Service Contract (first year of the agreement) and is described in Chapter V. If there have been no changes to the fiscal terms at all, a copy of the current Attachment B may be attached for payment purposes instead of preparing a new form.

Attachment C: Reports and Applicable Statutes, Regulations, and Policies

This form is the same as used for the Standard Service Contract and is described in Chapter V. If there have been no changes, the Attachment C need not be attached.

D. RENEWAL APPROVAL PROCESS

The procedures for executing a contract renewal, acquiring the necessary approvals, as well as for making contract payments are essentially the same as for a service contract. The reader is referred to Chapter V for further details.

CHAPTER VII: CONTRACT AMENDMENTS

In actual practice, many contracts are modified one or more times during their five-year lifespans due to changes in any of a number of conditions. This chapter will outline the types of amendments that may occur to contracts, the requirements for executing an amendment, the process and required forms, and any limitations on amendments. A contract may also be amended at the time of annual renewal, which is discussed in Chapter VI.

The unilateral modification of significant terms of the agreement by either party without execution of an amendment may result in breach or default of the contract. Therefore it is incumbent upon both the Provider and the Purchasing Agency to review their contracts on a regular basis to ensure the agreements remain current. If circumstance has resulted in the need to amend a contract to prevent default or breach, such as the passage of a new law which impacts either party's ability to perform under the contract as specified, and the parties cannot mutually agree to amended terms, then the contract must be terminated.

In order to make a modification to any of the programmatic or fiscal contract terms (whether in the first year or during subsequent renewal years), a formal amendment is generally required. An amendment is a binding legal document which changes the programmatic and/or fiscal terms of the contract. The amendment must be negotiated and executed by mutual agreement between the Purchasing Agency and the Provider.

Note: The standard contractual terms contained in the General Conditions of the Master Agreement are generally not subject to amendment by individual Providers or Purchasing Agencies.

A. WHEN TO AMEND A CONTRACT

A formal amendment must be executed whenever there is a significant change to terms of the contract. Such changes may include, but are not limited to:

- * the duration of the contract
- * the scope of services, or any operating terms of the program
- * the maximum obligation of the contract
- * the unit price(s) or rate(s)
- * the reporting requirements
- * for cost reimbursement contracts, a change in budgeted amounts for program components (i.e., line items) that result in changes equal to or greater than 10% of any budget category.

Chapter IV also includes a discussion of additional circumstances requiring a budgetary amendment, regardless of whether or not the maximum obligation or unit rate will change.

The date indicated on the amendment is the effective date for the changes in terms. If necessary, the effective date may go back to the contract start date, as determined by the signature on the original SR, except for rate changes, which should be effective as of the date agreed upon by both parties.

If there is a change in the formal identity of the Provider that results in a change in the federal employer identification number to be used (through merger, change in federal ID, etc.), then a new agreement, which references the agreement it replaces, must be executed. A change in the Provider's name only does not require a formal amendment. In all cases of Provider identity changes, the Provider's Principal Purchasing Agency (PPA) is responsible for processing a Vendor Update (see Chapter III for more details) with the Office of the Comptroller and shall require adequate documentation to support the Provider's name or FEIN change. Depending on the nature of the identification change the Purchasing Agency may need to complete the prequalification process and execute a new Master Agreement with the Provider prior to executing the replacement contract.

In no case may either party permit assignment of the services under a POS contract. When an actual change in the party providing the service is anticipated, such as when a different Provider takes on the program utilizing most of the existing Provider's staff, then a new procurement by the Purchasing Agency is required before a replacement contract can be executed.

NOTE: Contracts may be amended to increase the maximum obligation greater than 125% of the annualized maximum obligation originally stated for the fiscal year ONLY if the Purchasing Agency has awarded the increase based upon appropriate procurement procedures, as specified in 808 CMR 2.09.

B. AMENDMENT NEGOTIATIONS AND LIMITATIONS

The programmatic and fiscal contract terms being amended are negotiated by the designated officers for the Provider and the Purchasing Agency and must be mutually agreed upon prior to execution of an amendment. If mutual agreement cannot be reached, then the existing terms of the contract agreement shall remain in effect until the contract is terminated. When an amendment to a contract is necessary to prevent default or breach, and consensus between the parties cannot be reached, then the contract **MUST** be terminated. Either party may initiate a termination process, but in all such cases the provisions of the General Conditions of the Master Agreement shall apply. Purchasing Agencies are encouraged to seek the advice of their legal counsel prior to initiating any termination process.

The scope of amendments being proposed and negotiated is limited by a number of factors. The limitation imposed by 808 CMR 2.09(1) states in part that the agreement, as amended, cannot be "so substantial a change from the specifications of the original procurement and award as to warrant a new procurement". In other words, if the modifications that are being proposed to the scope or nature of the services to be delivered are so significant that the services no longer reflect what was originally procured, then the competitive procurement process would be undermined unless the services, as amended, were subject to a new procurement. This same limitation applies to renewal agreements with modifications. (See Chapter VI.) The Purchasing Agency is responsible for making this determination by reviewing the nature of the proposed changes, the basis of the original procurement, and the potential competition for provision of the modified services.

Similarly, the provisions of 808 CMR 2.09(3) impose a limitation on increases in funding, to no more than 125% of the current fiscal year annualized maximum obligation unless the services, as amended, were subject to procurement. This same section of the regulation imposes a lifetime cap of 150% on the amount of increased funding without further procurement that may be awarded through amendments and/or renewals of the contract. The 150% limit is calculated on the initial annualized maximum contract obligation stated on Year 1 of a multi-year contract. If any increases are or have been awarded on the basis of a competitive procurement process for the additional funding, then no limit applies. In this case, the maximum obligation that is the sum of all awards made pursuant to competitive procurement procedures becomes the basis for calculating the limitations for any future increases. DPS will consider a waiver of this limitation under appropriate circumstances and with strong justification from the Purchasing Agency. Further guidance on the application of the provisions of 808 CMR 2.09(3) to any particular circumstance is available from the Division's Technical Support Bureau.

C. THE AMENDMENT FORM

Once the amended terms have been successfully negotiated, a Service Contract Amendment or another authorized amendment form must be prepared. (See Chapter IX for a discussion of other agreements used in the POS system.) The one page Amendment form is used to document the current and 'as amended' terms of the agreement. A complete amendment package may include modifications to attachments in the original contract, i.e. Attachments A, B, or C, depending on the nature of the amendment. A revised Attachment for each section that is being changed must be included with the amendment, as follows:

- * Attachment A (for programmatic changes): Such modifications will be documented on the Attachment A Addendum form.
- * Attachment B (for changes in rate, maximum obligation, total offsets and/or any other fiscal terms): For negotiated or cost reimbursement budgets, the Budget Amendment

pages are used. For non-negotiated unit rate changes, a new budget page must be submitted. For cost reimbursement line item amendments, if the change among categories is less than 10% a formal amendment is not required and the Purchasing Agency can establish its own policy for documenting the changes internally.

- * Attachment C (for changes in reporting requirements, etc.): A revised Attachment C must be prepared.

To be fully executed, the amendment must be signed by authorized representatives of the Provider and the Purchasing Agency and the approval procedures outlined in the next section must be completed.

D. AMENDMENT APPROVAL PROCESS

The approval process for amendments varies depending on the type of amendment being negotiated and is described separately below. There are three levels of approval that may be required for an amendment to a purchase-of-service contract: 1) authorization of the modifications being proposed (via the "SM"); 2) approval of the contract amendment form; and 3) certification of the new rate, if changed. In any case, the Purchasing Agency is responsible for taking the required steps to garner the applicable approvals and to notify the Provider. The Purchasing Agency must forward a copy of the fully executed contract amendment and/or the SM, as applicable, to the Provider in a timely manner.

All amendments, except those involving less than 10% category changes, must be filed at the Office of the Comptroller by the Purchasing Agency. Payments that reflect changes in unit rate or maximum obligation can only occur after the amendment and SM have been filed and approved by the Office of the Comptroller.

1. Program & Accounting Amendment

Requires amendment to the contract document and to MMARS

The most common amendment that falls in this category involves a change in the negotiated unit price and/or maximum obligation, and any attendant programmatic adjustments.

The MMARS form for recording accounting information amendments is the Service Modification (SM), and is used to record changes in the Massachusetts Management Accounting and Reporting System (MMARS) to the maximum obligation, dates of service, program code (which identifies service type), rate, service unit or any other change involving modification to the accounting information (such as change in appropriation). The SM form can only be used after the Service Request (SR) and Service Contract (SC) for the contract or renewal has been fully executed and approved on MMARS.

The approval process for this type of amendment is initiated by the Purchasing Agency which enters the SM data into the MMARS system. The SM printout that is generated by MMARS is used to document the authorization for the changes and availability of funding, if applicable. The SM printout is signed by the authorized signatories for the Purchasing Agency and its Secretariat, and is filed together with the fully executed amendment, at the Office of the Comptroller.

2. Program Amendments only

Some amendments do not require an SM in MMARS, e.g., changes to the Attachment A and/or C only, or changes to the Attachment B that do not change the maximum obligation or rate, such as cost reimbursement line item changes, certain changes in offset or utilization, etc. In these cases, the Provider submits a standard amendment form to the Purchasing Agency, which reviews it, signs it and submits the original amendment form to the Office of the Comptroller for filing.

3. Accounting Amendments only

In this third category are changes that must be made to the accounting information which do not affect the basic contract terms. Examples include appropriation account transfers and corrections and/or revisions to technical accounting fields (such as object code, organization code, etc.). In those cases, the Purchasing Agency must process an SM as described above, however no contract amendment form is required.

Note: For amendments requiring a new rate certification, DPS will utilize the same automated approval process that is used for contracts. (This is described in Chapter V.)

CHAPTER VIII: MONITORING, EVALUATION, AND PERFORMANCE-BASED CONTRACTING

This chapter reviews the activities involved in contract monitoring, program evaluation and performance based contracting.

A. MONITORING AND EVALUATION SYSTEMS

Monitoring and evaluation of Providers' programs and delivery of services to clients is a critical element of the purchase-of-service system. A comprehensive and regular system of monitoring and evaluation provides the following benefits to both Purchasing Agencies and Providers:

- * Establishes a consistent process to review both the quantity and quality of service delivery.
- * Focuses on the submission of objective data and quantifiable information as the basis for negotiations and discussions relative to contract performance.
- * Ensures compliance with all activities required under the terms of the contract.
- * Provides the mechanism for an "early warning" system for both Purchasing Agencies and Providers to identify potential and current problems within a specific contract or trends within the overall service delivery system.
- * Encourages the integration of both fiscal and programmatic performance.
- * Assists Purchasing Agencies in contract funding and award decisions and in assessing and determining future service needs based on objective information.

It is the responsibility of every Purchasing Agency to establish systems to monitor both the programmatic and fiscal aspects of each POS contract. These systems are essential to ensure that services are being delivered in accordance with the terms and conditions of the contract. This chapter distinguishes between the two discrete functions of Contract Monitoring and Program Evaluation. Contract monitoring is an ongoing review process to ensure compliance with all required activities, reporting procedures, and fiscal operations for all contracted services. Program evaluation focuses on the area of quality in service delivery and success in achieving pre-established and agreed upon objectives.

Monitoring and evaluation functions should not be confused with audit activities. The function of audit when testing, on a sample basis, some of the same systems that are monitored is to provide assurance that the monitoring and evaluation function is accomplishing its objectives.

DPS has issued, under regulation 808 CMR 2.14, minimum requirements for contract administration. These regulations require that each Purchasing Agency appoint a Contract Performance Manager for each agreement and that this individual shall be responsible for monitoring compliance with all terms of the Agreement and for assuring the satisfactory performance of all aspects of the Agreement. The POS monitoring and evaluation functions that are conducted by Purchasing Agencies, must also be able to link the financial and programmatic performance that was attained or not attained. The DPS regulation also requires that each Purchasing Agency conduct an annual review of the provider's performance under the Agreement. Programs that receive federal financial assistance are also subject to the monitoring and program performance reporting requirements of OMB Circular A-110, Attachment H.

Individuals charged with conducting monitoring and evaluation of contract and program performance should restrict their activities to areas in which they possess expertise. Members of a contract and program financial monitoring team will look at the quality of provider's record keeping and reporting systems and at quantified financial and program performance outputs. These individuals are not expected to comment on or to analyze the quality of the programmatic outcomes, which should be done by members of program quality assurance teams.

It is the strong belief of DPS that the annual review process must include aspects of both Program Evaluation and Contract Monitoring. Both components are equally important in creating a truly integrated system with which to evaluate performance. Ultimately, effective contract monitoring and program evaluation systems help both Purchasing Agencies and Providers to achieve program objectives, to increase cost effectiveness and to enhance the quality of services.

1. CONTRACT MONITORING

The contract monitoring function protects the interests of all parties - the Purchasing Agencies, the Providers, the clients, and the taxpayers. Each Purchasing Agency is responsible for establishing its own procedures and systems to ensure that appropriate contract monitoring activities occur on a regular basis. A good contract monitoring system will also provide information on purchased activities that is needed by oversight agencies and by outside organizations (such as the Legislature, advocacy groups, etc.) as well as provide feedback to Providers and Purchasers. It also helps Purchasing Agencies make award and/or funding decisions, design future programs, and provide technical assistance to Providers. Providers benefit from doing their own internal monitoring by having the ability to give feedback to staff on the program's activities, to identify weaknesses in program administration systems, and to minimize the need to return funds to the Purchasing Agency, etc.

Purchasing Agencies monitor contract activities to ensure that time schedules are being met, projected work units by time periods are being accomplished, and other performance goals are being achieved. This review occurs for each program, function, or activity specified in the contract agreement. Ongoing contract review functions should also include monitoring of reimbursement. For example, cost reimbursement invoicing should be monitored to assure that budgeted payments for costs such as administration (Management and General/Overhead) made on a monthly basis are reconciled with the actual costs incurred and that invoices are adjusted at the end of the year to avoid overpayment.

2. PROGRAM EVALUATION

Program evaluation focuses on the effectiveness of a particular program in achieving the desired change in the skills, behaviors, attitudes, capabilities and mental and/or physical well-being of the individuals receiving services. Program evaluation is the formal process of reviewing those indicators that have been established in each contract to measure success of service delivery. Each agency will have its own established procedures and methodologies for evaluating the effectiveness of its contracts in providing essential services, including but not limited to Performance Based Contracting, Quality Assurance Systems, Consumer Satisfaction Surveys, Accreditation Systems, Internal and External Agency Evaluations, and Pre/Post Testing Systems.

There are a variety of procedures available to assess the quality of services provided to individuals in the purchase of service system. It is the responsibility of each Purchasing Agency to identify the required reporting procedures and program evaluation expectations of all contracts. Performance based contracting is one method of evaluating service delivery and will be discussed in greater detail later in this chapter. Purchasing Agencies and Providers will also rely on other internal and external evaluation tools. The RFP document and subsequent contract agreements must include a summary of all required reporting procedures and program requirements which may include the following:

- * Compliance with all applicable statutes, regulations and policies, as specified in the General Conditions of the Master Agreement.
- * All relevant Secretariat and/or Purchasing Agency requirements, as specified in the Attachment C.
- * Compliance with all licensing, quality assurance, and accreditation requirements.
- * Internal and external program evaluation procedures, peer review, and consumer/client satisfaction surveys, etc.

The results of a comprehensive program evaluation system should be used to ensure that the Commonwealth and its citizens are receiving the highest quality and most cost effective services. Program evaluation is essential in assisting state Purchasing Agencies in identifying needed improvements in service delivery and in determining future contract awards.

B. PERFORMANCE-BASED CONTRACTING

Performance based contracting is a method of contracting that focuses on measurable outcomes, or results, of service delivery. Federal standards (OMB Circular A-110) require that financial information be directly related and compared to success in achieving performance based objectives and to unit cost data. The process starts when a Purchasing Agency indicates the desired outcomes for a program or target population in an RFP, to which a bidder responds. If necessary, the Purchasing Agency negotiates the outcomes in greater detail with the Provider who is awarded a contract. The Division has set forth the following guidelines for developing adequate and appropriate outcome measures:

- (1) The outcomes measures must be clearly defined so as to be clearly understood by both the Purchasing Agency and bidder.
- (2) The outcomes measures must be specific and quantifiable. Some examples of possible outcome measures are:

A percentage or number of individuals who will be placed in a job for a minimum number of months.

A minimum number of home studies to be completed each month.

A decrease in the number of teen pregnancies each year by an agreed upon percentage.

Or, the outcome measures may set the acceptable standard for service delivery rather than establishing a numerical target. For example:

All intakes must be completed and an initial planning meeting held within one week of the initial referral.

All responses to emergency calls must occur within one hour of receiving the initial call.

- (3) The number of outcome measures must be reasonable and take into consideration the capacity of the bidder to aggregate the information and statistics required to provide documentation and the capacity available within the Purchasing Agency to review and respond to the documentation submitted. The Division of Purchased Services is recommending that no more than seven (7) objectives be identified for each program.
- (4) The Purchasing Agency must clearly state the projected frequency of assessment, reporting methodology to be used and the person responsible for reviewing and evaluating the progress made towards meeting the performance based objectives. Examples might be, written reports documenting the status of each objective submitted every six months or face-to-face meetings every six months to discuss progress, to date, in meeting each objective.
- (5) Renewals and negotiations should occur with an assessment of the achievement of the desired contract specific outcomes.

There are several advantages both to Purchasing Agencies and to Providers, in utilizing performance-based contracting. The Purchasing Agency can identify its priority objectives requiring quantifiable outcome measures and can assess the effectiveness of the program in delivering the service. The emphasis on outcome measures focuses attention to actual services delivered and quality of output rather than on line-by-line expenditures. Objective criteria can be established by the Purchasing Agency to assist in making decisions on contract renewal, contract award and program expansion instead of relying on subjective observations.

Staff from the Division of Purchased Services are available to provide technical assistance to Purchasing Agencies in the development of Performance Based Outcomes or in the broader area of Program Monitoring and Evaluation.

CHAPTER IX: CONTRACT SYSTEM ADMINISTRATION

This chapter covers technical aspects of contract management that have not already been addressed in earlier chapters, as well as the other types of contractual agreements that may be used for certain purchase-of-service (POS) activity.

A. CONTRACT SYSTEM MANAGEMENT

Section A describes a number of activities and requirements that are primarily Purchasing Agency responsibilities. These include signature authorizations, waiver requests, new program type reporting requirements, financial impact statements for licensing standards, audit resolution procedures, and federal audit standards for state agencies.

1. SIGNATORY AUTHORITY

The parties to a contract, as well as parties responsible for the various approvals required for contracts in the purchase-of-service system, usually designate one or more individuals to sign on behalf of the agency. Both Providers and state Purchasing Agencies are responsible for maintaining an accurate signatory authority listing.

For purchase-of-service contractors, signatory authority is documented via Attachment 2 of the Master Agreement. Since the Master Agreement is an open ended document that is filed only once upon the Provider's entry into the POS system (see Chapter III for more details), the Provider is responsible for notifying its Principal Purchasing Agency (PPA) when a change in signatory authorization or in its compliance status has occurred. The Provider will be required to complete a new Attachment 2: Signatory Authorization form and/or a "Master Agreement Change Notification" form (for changes in signature authority or compliance status). The PPA will be responsible for filing the form with the Office of the Comptroller.

For state agencies and Secretariats, signatory authority must be annually updated and/or confirmed. The Office of the Comptroller has established a 'Signature Authorization Policy', which spells out the formal delegation procedure. This procedure and form is contained in MMARS Memo #116, as amended. Purchasing agencies should contact their own MMARS liaisons for a copy of this memo or more information.

2. WAIVERS

The Division of Purchased Services regulations provide for the opportunity to request a waiver of any provisions, upon documentation of special circumstances and/or the need for relief. This opportunity extends to any required procedures and standards specified in this Handbook. If a

request to waive any regulatory provision or portion of the Handbook becomes necessary, the Purchasing Agency or Provider must prepare a written justification statement and submit it to DPS. This statement must contain the following information:

1. The specific provision(s) of the regulation or Handbook being waived,
2. The transaction(s) involved,
3. A clear, specific, and compelling justification for the request,
4. Any relevant documentation which supports the request,
5. A certification that the requestor has made a good faith effort to comply with the regulation or Handbook, and
6. An original signature by an authorized signatory.

DPS also requests that Purchasing Agencies use the "DPS Waiver Tracking Form" when submitting waiver requests. Both the tracking form and a sample format for a waiver request, are available from the Technical Bureau at DPS, upon request. The Division will review all waiver requests to determine if granting the request is reasonable and in the best interest of the Commonwealth. If approved, a copy of the request with DPS's signature denoting approval will be returned to the requestor. A copy of the approved waiver should be attached to the transaction in question and kept on file for the duration specified by the Records Conservation Board.

3. ESTABLISHING A NEW PROGRAM TYPE

Purchasing Agencies wishing to establish a new Program/Service Type should submit the new Program Code information, together with an updated RFP Cycle, to the Division of Purchased Services and to its Secretariat, if applicable. A summary of the Program Code Category and Class options, which is needed for the Program Code information, is in Appendix 11, and a complete description of these classifications is available from DPS on request.

4. REPORTING ON THE FINANCIAL IMPACT OF LICENSING STANDARDS

St. 1992, c. 133, s. 113 (see Appendix 2) requires that all proposed regulations of the Office for Children and the Department of Education and any other licensing or certification standards proposed by any department procuring social service programs shall be forwarded to the Division of Purchased Services with a statement describing the anticipated financial impact of the regulations 14 days prior to publication of the notice of rule making required under M.G.L. c. 30A.

5. INDEPENDENT AUDIT AND RESOLUTION

The POS system employs a unified or single audit approach to auditing Providers. This approach is designed to meet the needs of all report users and to target audits to problem areas

in the system. The Uniform Financial Statements and Independent Auditor's Report (UFR) is the primary vehicle that accomplishes this need of the Commonwealth to provide adequate oversight of provider organizations contracting with the Commonwealth. The UFR is described in more detail in Chapter III.

The UFR is audited in accordance with generally accepted government auditing standards (GAGAS). These standards incorporate and build upon the professional field work and reporting audit standards of generally accepted auditing standards (GAAS) that have been established by the American Institute of Certified Public Accountants (AICPA). This is important to many report users because the audit includes auditor's reports on the providers internal control structure and compliance with laws and regulations. Additional benefits of GAGAS include requirements for disclosure of audit findings, resolution and follow-up on deficiencies, continuing education requirements for the auditor, and internal and external quality control requirements for the report and auditor.

These additional elements of GAGAS have permitted the Commonwealth to utilize the UFR as a starting point for meeting its federal financial assistance subrecipient single audit responsibilities under OMB Circular A-133.

The UFR is the mainstay of the profile system that DPS has developed. Under this system the independent audit of the UFR by a Certified Public Accountant establishes a baseline accountability of the Provider's use of funds. The UFR is then employed to establish an automated financial database of the financial operations of all POS Providers, against which each Provider will be measured. The "exception" Provider is then targeted for post-audit. This focused approach allows the Commonwealth to allocate audit resources toward problem Providers while having reasonable assurances that the rest of the system is operating well.

Three additional developments have been established to enhance the system. The Division of Purchased Services has established the following documents and procedures, which Purchasing Agencies and Providers should be aware of:

- * Auditor's Compliance Procedures Supplement. This document is used in conjunction with the UFR to assist the auditor in determining what areas of audit need to be tested, the extent of the testing required and how to conduct the tests.
- * Audit Resolution Policy. This policy implements the auditor's internal control and compliance finding recommendations contained in UFRs, Federal Audits and State Auditor Reports. This policy delegates responsibility for the correction and elimination of deficiencies noted in audit reports to appropriate oversight agencies. Oversight agencies resolve these deficiencies by executing a contractual administrative agreement with the auditee to eliminate the deficiencies.

- * Inter-Agency Agreement with State Auditor. This agreement has been established to accommodate the need to provide emergency audit services when needed. Problem providers that have been identified through the profile system or from other sources and POS purchasing agencies with indications of irregularities are referred to the State Auditor for audit assistance using this mechanism.
- * Federal Single Audit Information. The POS system as a recipient of federal financial assistance is subject to the provisions of OMB Circular A-133. The Division of Purchased Services, pursuant to its enabling language on conducting and coordinating a uniform system of audit, is responsible for the oversight of the POS audit activities associated with OMB Circular A-133. The Division of Purchased Services has developed an information packet which provides information concerning the provisions of OMB Circular A-133, and a summary of the responsibilities of the provider and purchasing agency. Additional guidance concerning single audit requirements is contained in the UFR instructions.

6. OMB CIRCULAR A-128: AUDITS OF STATE AND LOCAL GOVERNMENTS

Many state Purchasing Agencies receive federal funds that are used to purchase social services through the POS system. OMB Circular No. A-128 requires governmental subrecipients of federal funds to produce a single audit under the terms of this circular. Specifically, state Purchasing Agencies and governmental providers are required to meet the audit requirements based on awards received, to select their auditor in accordance with the standards of OMB Circular No. A-110, and to resolve audits as required by A-128 or by the Commonwealth. Governmental entities, such as cities and towns, which contract with the Commonwealth to provide social service programs must file the appropriate single audit with DPS to meet the requirements of A-128; they do not need to complete the UFR.

B. OTHER TYPES OF POS AGREEMENTS

1. AS-NEEDED SERVICES

As-Needed Services is a new name for what has been variously called "blanket purchases", "prequalified services" or "open orders". It is defined in regulation 808 CMR 2.00 as those services which a Purchasing Agency purchases on an 'as-needed' basis from a pool of eligible prequalified Providers. The following conditions apply to As-Needed Services:

1. All services are paid on a unit rate basis (negotiated or class rate),
2. The amount of service needed from any one Provider cannot be predicted, and
3. Total expenditures for the service can be controlled by the Purchasing Agency through its control over referrals for the service or client utilization of the service.

The RFQ procurement process is used to establish the list of Providers for an As-Needed Service. The DPS "Limited Unit Rate Agreement" or the DPS Standard Service Contract form can be used to document the agreement between the parties.

2. MASTER SERVICE AGREEMENTS

A Master Service Agreement (MSA) is a specialized contracting and MMARS accounting mechanism that has been created by the Office of the Comptroller. There are two types of MSAs: statewide and departmental. A departmental MSA permits a Purchasing Agency to establish open agreements with a pool of qualified Providers who are available upon request to provide a specified service(s) at a specified rate(s). In practice, the MSA form of contracting in the purchase-of-service system is used almost exclusively for As-Needed Services.

Each qualified Provider must sign a contractual agreement, that usually does not establish a maximum obligation, in order to participate in an MSA. For certain services, such as sign language interpreters, a statewide MSA is established for use by all Purchasing Agencies. In such cases the Department of Procurement and General Services is the state agency designated to conduct the procurement and execute the agreements on behalf of all state agencies.

A Purchasing Agency that wishes to establish a departmental MSA must conduct an appropriate procurement process, usually a Request for Qualifications, as outlined in Chapter II. Most of the Provider eligibility and compliance requirements described in Chapter III also apply to MSA agreements. The contract form to be used for purchase-of-service MSAs is the "Limited Unit Rate Agreement" for organizations or the "Individual Provider Contract" for individuals. All agreements must specify the approved rate or rates (see Chapter IV for more information about establishing rates), as well as basic program standards, fiscal terms and reporting requirements as specified on the forms. More information about establishing an MSA on MMARS, the state's accounting system, and the proper encumbrance procedures is available through the Office of the Comptroller.

3. INDIVIDUAL PROVIDER CONTRACTS

Often Purchasing Agencies seek to purchase client services, such as therapy or counseling, directly from an individual. In fact, contracts worth over \$8 million are awarded annually for such individual services. Such contracts are considered part of the purchase-of-service system and the Division of Purchased Services (DPS) has established specific procurement and contracting standards. Purchasing Agencies may select an individual Provider by engaging either in the basic RFQ procurement process, with some modifications as outlined in 808 CMR 2.05, or in non-competitive procurement. Readers are referred to Chapter II for more information about the general procurement standards. Contracts may be awarded for a maximum five year total duration.

IX - 6

All individual provider contracts are reimbursed on a unit rate basis. Purchasing Agencies seeking to negotiate or otherwise establish a rate for a particular individual provider contract should use one of the following sources, which are listed in priority order:

1. A rate established under a Rate Setting Commission (RSC) regulation, if applicable.
2. A negotiated rate that falls within the price range for a particular program component in the current Component Price Catalogue. An additional maximum of 25 % may be added to the base rate for the cost of fringe benefits and taxes.
3. If no appropriate program component title is listed in the Catalogue, then Purchasing Agencies should determine whether there is an equivalent state position classification. A rate that is negotiated on this basis should not exceed the Step 1 hourly rate plus up to 25 % for the cost of fringe benefits and taxes.
4. Otherwise, Purchasing Agencies should seek an individualized rate from the Division's Pricing Bureau.

This is my last annual butterfly freedom celebration. As Berry is closing and I am moving to a group home. Each year I have helped feed and raise caterpillars that grew in(to) painted lady butterflies. It has been very interesting watching them grow from caterpillars and emerge from their chrysalis as butterflies. It has made me very happy to see the butters change and grow butterflies' wings. It makes me sad and uptight to leave all my friends and the butterflies. But I am looking forward to a new and happy life.

-By Susan Myers

On Tuesday, September 15, the Recreational Reading Group put malva plant into vials then inserted painted lady Caterpillars into each vial. The caterpillars ate and ate until they got long and fat. Then they hung upside down showing that they were ready to form chrysalises.

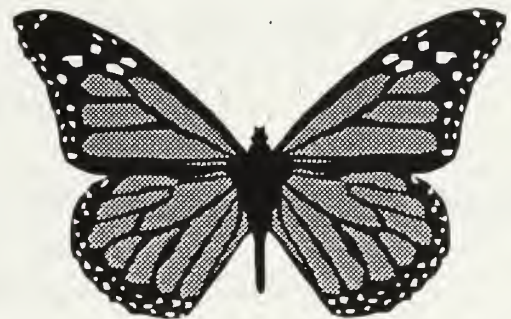
On Tuesday, the 22nd, two chrysalises had formed by 2:30 and seven more had formed by 4:30. Previous to this five other chrysalises which had arrived two weeks earlier had hatched so five butterflies came early. Two of them escaped their cage and flew out into Sylvia's office.

- By Martha Pires

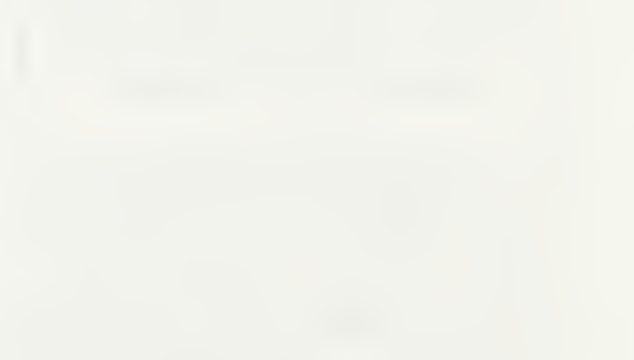
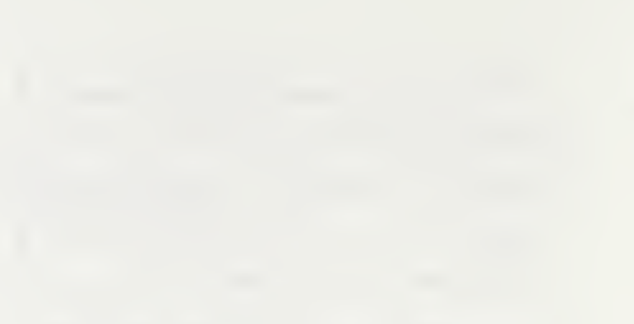
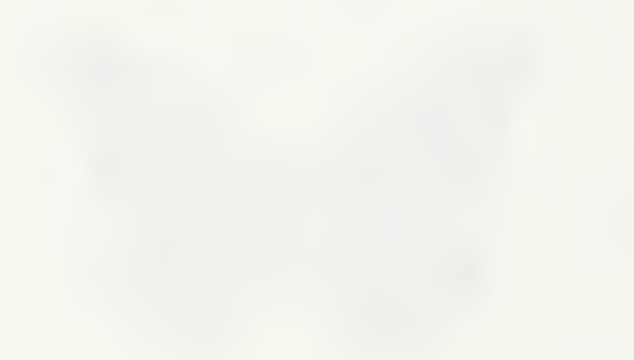
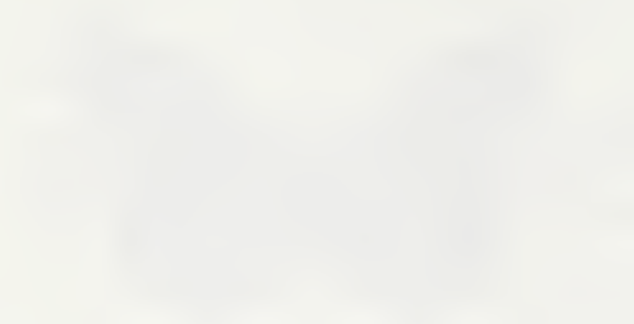


On Tuesday evening, September 22, I went into Sylvia's office to observe the caterpillars in the process of developing into butterflies. The most interesting thing I saw was a half-caterpillar and half-chrysalis which was wiggling around trying to knock off its head. It was interesting to note that nature is strange because even though 30 caterpillars arrived at the same time and same size or stage in life, yet some developed faster than others. This is true of other animals as well as people, So it is okay to be who and how you are.

-- By Arnold Booth



Compositions written by members of the Recreational Reading Club of the John T. Berry Rehabilitation Center.



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APPENDIX 1:

Division of Purchased Services Staff

APPENDIX I:

Division of Purchased Services Staff

DEPARTMENT OF PROCUREMENT AND GENERAL SERVICES
DIVISION OF PURCHASED SERVICES

(617) 727-7500

(617) 727-4527 (facsimile)

<u>BUREAU</u>	<u>TITLE</u>	<u>EXTENSION</u>
<u>Executive</u>		
Roszkiewicz, Dana	Deputy Purchasing Agent	213
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APPENDIX 2:

POS Legal System Authority

a) M.G.L. c. 29, s.29B

(Statute regarding purchase of social services)

b) St. 1992 c. 133, s. 113

(Division of Purchased Services' current enabling legislation)

Massachusetts General Laws (M.G.L.)
Chapter 29, Section 29B

§ 29B. Contracts with organizations providing social, etc., services

The commissioner shall make, and may from time to time amend, rules and regulations governing the procurement and administration of contracts with organizations providing social, rehabilitative, health, or special education services. Such rules and regulations shall not be subject to the provisions of chapter thirty A. No department, office, agency, board, commission or institution within any of the executive offices established by chapters six A and seven shall contract for the provision of any such services except in conformance with said regulations and without the prior written approval of the contract by the secretary having charge of such executive office. No payment shall be made to a contracting organization for any services provided prior to the date upon which a form requesting said services has been approved by the secretary having charge of such executive office and a copy of the same has been filed with the comptroller, with the exception that payment may be made for services rendered no earlier than fifteen days prior to said date, upon approval by the commissioner of administration of a written request for start date retroactivity submitted by the contracting agency and approved by the secretariat in charge of said agency. No person employed by an organization providing social, rehabilitative, health, or special education services as defined above shall directly or indirectly supervise a temporary or permanent employee of the commonwealth. Such contracts shall not be written or used by any department, office, agency, board, commission or institution of the commonwealth to procure full or part-time personal services, or equipment to be used by such department, office, agency, board, commission or institution, or any goods or services not required in the direct provision by the contractor of social, rehabilitative, health, or special education services to populations being served by the contracting department, office, agency, board, commission, or institution. Added by St.1986, c. 488, § 20.

Division of Purchased Services' Enabling Legislation

St. 1992, c. 133, s. 113

Section 113. There shall be established within the department of procurement and general services a division of purchased services. The division shall have primary responsibility for the implementation and coordination of an efficient and accountable system of procurement, selection, pricing, contract administration, program monitoring and evaluation, contract compliance and post audit for any department, agency, board or commission of the commonwealth which procures or pays for social service programs from providers.

For the purposes of this section, the term "social service program" shall mean any social, special educational, mental health, mental retardation, habilitative, rehabilitative, vocational, employment and training, or elder services program or accommodations, purchased by a governmental unit, including any program provided pursuant to chapter seventy-one B, but excluding any program or service which is reimbursable under Title XIX of the Social Security Act. The term "governmental unit" shall mean the commonwealth and any school district or other political subdivision of the commonwealth.

The division shall be headed by an assistant commissioner, who shall be appointed by and serve at the pleasure of the secretary of administration and finance, and who shall have administrative responsibility for said division. The position shall be classified in accordance with section forty-five of chapter thirty, and the salary therefor shall be determined in accordance with section forty-six C of chapter thirty.

The division shall be comprised of such bureaus as may be necessary to carry out the mission of the division, which may include, but not be limited to: an audit bureau, a bureau of data base management and a bureau of program pricing, which may be comprised of a unit for special education program pricing and a unit for other social service programs. The assistant commissioner shall report annually to the house and senate committee on ways and means on activities and operations of the division, including any recommendations for legislation. Said report shall also summarize any findings, opinions and recommendations of the social service policy advisory board established pursuant to this section.

There shall be a social service policy advisory board consisting of the secretary of health and human services or his designee, the secretary of elder affairs or his designee, the commissioner of education or his designee, a representative of the Massachusetts association of school committees who shall be selected by that organization, a representative of the associated industries of Massachusetts who shall be selected by that organization, a representative of the Massachusetts association of approved private schools who shall be selected by that organization, and twelve members to be appointed by the governor, one of whom shall be a

representative of a provider contracting with one or more agencies within the executive office of health and human services, one of whom shall be a representative of a provider contracting with the executive office of elder affairs, one of whom shall be a consumer of services provided by one or more agencies within the executive office of health and human services, one of whom shall be a consumer of services provided by an agency contracting with the executive office of elder affairs, one of whom shall be a representative of the Massachusetts superintendents of schools association or a special education administrator for a city or town of the commonwealth, and one of whom shall be a parent of a child with special education needs. Each appointed member of said board shall be appointed for a term of three years and may be reappointed; provided, that among the initial appointed members, four shall be appointed for a term of one year, four shall be appointed for a term of two years and four shall be appointed for a term of three years. The chairperson of said board shall be selected by the governor and shall serve in this function for a term of not more than one year.

Said board shall meet quarterly and shall make recommendations to the assistant commissioner on matters of policy of the division. Except in the case of emergency regulations, at least thirty days before the promulgation of any proposed regulation, the assistant commissioner shall provide a copy thereof, together with an explanatory statement, to said board. The assistant commissioner shall give due consideration to comments on such proposed regulation submitted by said board or any members thereof.

The division shall have the responsibility for prescribing the methods to be used in determining the prices to be reimbursed to providers of social service programs by governmental units. The methods prescribed by the division in determining prices shall incorporate cost containment standards and shall be fair to both governmental units and providers. All governmental units shall pay the prices developed in accordance with the methods prescribed by the division.

The prices determined by the division of purchased services, or pursuant to its methods, for programs pursuant to chapter seventy-one B shall be set annually by the first Wednesday in February for the next fiscal year. If said division fails to determine said final annual prices on or before the first Wednesday in February, said prices in effect shall continue to be in effect for the next fiscal year. Program prices for programs approved under chapter seventy-one B which are located outside of the commonwealth may be adjusted prospectively to account for rate or price adjustments authorized by the host state's rate setting body. In addition, program prices may be adjusted prospectively to account for unanticipated emergencies beyond the reasonable control of the provider, or to reflect costs attributable to extraordinary changes in volume, or to account for compliance with federal or state statutory or local regulatory requirements as determined by the division and pursuant to standards developed by the division. No such price may be

adjusted retroactive to its effective date except to account for the results of administrative reviews, if any, as provided in the regulations of the division. Nothing herein shall preclude the division from setting a price for a new program established for the first time under said chapter seventy-one B, or individual or sole source prices as provided in the regulations of the division after the first Wednesday in February of any fiscal year.

The division shall submit an estimated rate of inflation for social service programs to the secretary of administration and finance annually by December first for consideration in the preparation of the governor's annual budget recommendation.

Any provider or governmental unit aggrieved by the division's action or failure to act with respect to the determination of a price pursuant to the division's pricing methods, and desiring a review thereof, may file, pursuant to regulations promulgated by the division, an appeal with the division of administrative law appeals in accordance with the section four H of chapter seven. The question on appeal of the decision of the division of purchased services shall be whether said division, in taking the action challenged by the aggrieved party, has properly applied its regulations. This paragraph shall not be construed to confer a right upon any aggrieved party to challenge, in a proceeding before the division of administrative law appeals, the procedural or substantive validity of any regulation of general applicability promulgated by the division of purchased services. Any such challenges shall be brought exclusively in the superior courts of the commonwealth in accordance with the provisions of chapter thirty A.

The division shall establish guidelines and standards, consistent with generally accepted governmental auditing standards, for independent financial and performance audits of providers of social service programs and governmental units purchasing programs. The division shall coordinate or conduct audits of providers as needed to monitor compliance with applicable fiscal policies. The division shall develop and administer a uniform system of financial accounting, allocation, reporting and auditing of providers which conforms to generally accepted governmental auditing standards. The division may conduct quality assurance reviews of provider financial statements and their auditors' reports and work papers. The disclosure of client records by providers to auditors, including independent auditors as defined by Federal Office of Management and Budget Circular A-133, as amended, as necessary to comply with state and federal audit requirements shall not constitute an invasion of privacy, or otherwise be grounds for civil or criminal penalty.

The assistant commissioner may, in accordance with chapter thirty A, and after notice to the social service policy advisory board, promulgate rules and regulations required to develop, implement, administer and monitor the programs and functions of the division. Said regulations shall provide for right of appeal, to the division or appropriate other bodies, for any procuring

governmental unit or provider aggrieved by any action or failure to act under color of this section or said regulations.

All proposed regulations of the office for children and the department of education, and any other licensing or certification standards proposed by any department procuring social service programs, shall be forwarded to the division of purchased services with a statement describing the anticipated financial impact of the regulations fourteen days prior to publication of the notice of rule making required under chapter thirty A.

APPENDIX 3:

Division of Purchased Services Regulations

- a) 808 CMR 1.00: **Pricing, Reporting and Auditing for Social Service Programs**
- b) 808 CMR 2.00: **Procedures for the Procurement of Social Services**
- c) 808 CMR 3.00: **Component Price Catalog**

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NON-TEXT PAGE

808 CMR 1.00: PRICING, REPORTING AND AUDITING FOR SOCIAL SERVICE PROGRAMS

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1.01: Scope, Purpose and Effective Date

(1) Scope, Purpose and Effective Date. 808 CMR 1.00 governs pricing, reporting and auditing of purchased social service programs subject to the authority of the Division of Purchased Services by virtue of St. 1992, c. 133, s. 113, or any successor provision thereto. 808 CMR 1.00 applies to any Executive Office, Department, Agency, Board, Commission or Institution of the Executive Department, excluding the Legislative and Judicial Departments, the Constitutional Offices, the Public Institutions of Higher Education and independent public authorities. As 808 CMR 1.00 applies to services purchased pursuant to M.G.L. c. 71B, it also applies to Commonwealth cities and towns. 808 CMR 1.00 shall be effective on November 20, 1992. 808 CMR 1.00 applies to all programs and services procured under 808 CMR 2.00.

(2) Disclaimer of Authorization of Services. 808 CMR 1.00 does not provide authorization for or approval of the substantive programs for which prices are determined pursuant to 808 CMR 1.00. Agencies which purchase services from providers are responsible for the definition, authorization and approval of the services extended to clients. Information concerning substantive program requirements must be obtained from purchasing agencies.

(3) Authority. 808 CMR 1.00 is adopted pursuant to St. 1992, c. 133, s. 113, or any successor provision thereto.

1.02: Definitions

As used in 808 CMR 1.00, unless the context requires otherwise, terms shall have the meanings ascribed in 808 CMR 1.02.

Administration and Support Costs. Administration and support (management and general) costs include expenditures for the overall direction of the organization, general record keeping, business management, budgeting, general board activities and related purposes. "Overall direction" includes the salaries and expenses of the chief officer of the organization and the chief officer's staff. If such staff spends a portion of its time directly supervising fundraising or program service activities, such salaries and expenses are considered indirect fundraising or program costs and should be prorated (allocated) among those functions by position title, for instance, program director, or type of expense.

1.02: continued

Authorized Price. A price or rate of payment which has been authorized by the Division of Purchased Services. The Division of Purchased Services authorizes a price by approving a negotiated price or by certifying a specialized placement price, an individual price or a price for a program approved by the Department of Education pursuant to M.G.L. c. 71B. In the case of Medicaid (Title XIX of the Social Security Act) reimbursable prices, an authorized price is the rate set by the Rate Setting Commission or by the Department of Public Welfare pursuant to M.G.L. c. 118, s. 4A. The authorized price is the rate or price which shall govern payment for services within the authority of 808 CMR 1.00.

Assistant Commissioner. The Assistant Commissioner of the Division of Purchased Services appointed pursuant to St. 1992, c. 133, s. 113, or any successor provision thereto.

Bad Debt. The portion of an account or note receivable that proves to be entirely uncollectible despite collection efforts.

Board of Education. The Massachusetts Board of Education established under M.G.L. c. 15, s. 1E.

Chapter 71B Approved Private School. A private school approved in accordance with the Department of Education's Regulations for the approval of Private Special Education Schools to Serve Publicly Funded Students appearing in 603 CMR 18.00.

Chapter 71B Regulations. The Department of Education's Chapter 766 Regulations promulgated under M.G.L. c. 71B (St. 1972, c. 766) appearing in 603 CMR 28.00, or any successor provisions thereto.

Client. An individual eligible for and/or receiving services through a program funded in whole or in part by a Commonwealth purchasing agency or city or town, including a student receiving services under M.G.L. c. 71B. Also referred to as "Consumer."

Client Resources. Revenue received in cash or in kind from clients to defray all or a portion of the cost of services. These may include supplemental social security income received by the provider to defray the room and board expense of residential clients, clients' food stamps, or payments made by clients according to ability to pay, such as a sliding fee scale.

Commercial Income. The difference between gross revenues and gross expenses resulting from the production of commercial products and services by clients.

Component Price. The price or range of prices for a program component, as defined by the Division of Purchased Services and published in the Component Price Catalogue.

Component Price Catalogue. The Component Price Catalogue, as amended from time to time, established by the Division of Purchased Services and containing a price or range of prices for given program components and instructions for calculating the total price of a social service program using the prices or range of prices for the individual program components.

Cost Inflation Factor. An estimated rate of inflation submitted by the Division of Purchased Services to the Secretary of Administration and Finance on an annual basis pursuant to St. 1992, c. 133, s. 113, or any successor provision thereto.

Cost Reimbursement. A payment arrangement under which the purchasing agency reimburses the provider for budgeted costs actually incurred in rendering the services specified in the agreement, up to a stated maximum obligation.

1.02: continued

Costs which Pertain to Various Functions. Many costs apply to more than one functional purpose. In such cases, it may be necessary to allocate these costs among functions because their degree of usage cannot be readily and specifically identified with each function. Examples include salaries of staff who perform more than one type of service, rental of a building used for various program services, administration and support, and fundraising activities. Where employees perform duties that relate to more than one function, the salaries of such individuals, as well as all other expenses which pertain to more than one function, should be allocated to the separate functional categories based on procedures that determine, as accurately as possible, the portion of the cost related to each function.

Days. Calendar days, unless otherwise specified in 808 CMR 1.00.

Debarment. The process whereby an organization or individual is determined ineligible to bid for or be awarded any public contract or subcontract for the purchase of any social service program or to provide special education services to a Massachusetts student for a specified period of time to be determined by the Division of Purchased Services, pursuant to the provisions of 808 CMR 1.20 and 808 CMR 2.15.

Department of Education. The Massachusetts Department of Education, including its departments and divisions, established by M.G.L. c. 15, s. 1.

Direct Client Wages. Wages earned by clients by performing commercial services, including production/service work or other functions which directly support or assist the direct production/service work of others (for instance, delivering piecework materials to an assembly bench or loading finished product on trucks). Direct client wages shall not include bonuses and awards, holiday and vacation pay, fringe benefits, stipends, incentives or any wages which are not directly related to productivity or which do not involve activities which generate commercial revenues for the provider.

Division of Purchased Services (also referred to as the Division). The office established by St. 1992, c. 133, s. 113 within the Department of Procurement and General Services, under the Executive Office for Administration and Finance.

Earnings Factor. An allowance for proprietary providers which provides for the realization of earnings in the delivery of a program of services. An earnings factor may be negotiated at the time of the procurement.

EOHHS Agency. An agency under the jurisdiction of the Executive Office of Health and Human Services established under M.G.L. c. 6A, s. 16.

Fee-for-Service. A payment arrangement under which the purchasing agency agrees to pay for a program or treatment at an established price per service unit.

Fiscal Year of the Commonwealth. The twelve month period beginning on July 1 and ending on June 30th.

IEP. An individualized education plan developed by a local school district's evaluation team and containing the elements described in the Department of Education's Chapter 766 Comprehensive Special Education Regulations appearing at 603 CMR 28.322 and 608 CMR 28.323.

ISP. An individual service plan developed by a purchasing agency in accordance with the purchasing agency's regulations or guidelines. (See 104 CMR 15.02)

1.02: continued

Indirect Client Compensation. All compensation not directly earned by clients performing commercial services such as production/service work or other functions which directly support or assist the direct production/service work of others. Indirect client compensation includes but is not limited to bonuses and awards, incentives, holiday and vacation pay, fringe benefits, stipends, incentives or any wages which are not directly related to productivity or which do not involve activities which generate commercial revenues for the provider.

Individual Price. The reimbursement price for additional unique or specialized services for a client which are not reimbursed in the established program's price but are required by an approved IEP or ISP. In the case of an ISP, the purchasing agency must specifically approve such additional service.

Interim Price. The price agreed to by a purchasing agency and a provider which is contained in a contract filed with the Office of the Comptroller will be the interim price for the contract unless the price is authorized prior to the filing.

LEA. A local education authority local school district or public school pursuant to M.G.L. c. 71B or c. 76, s. 1.

Local Administrator of Special Education. The person appointed by the school committee of any city, town or school district to serve as the Administrator of Special Education in accordance with the provisions of M.G.L. c. 71B and the Department of Education's Chapter 766 Comprehensive Special Education Regulations (603 CMR 28.000)

Maximum Obligation. The maximum dollar amount of the purchasing agency's agreement to pay for a program of services.

Negotiated Program. A program purchased through Purchase-of-Service, except programs procured under M.G.L. c. 71B. See 808 CMR 2.00.

New Program. A program designed to serve clients which previously has not been approved or funded and for which a rate or price previously has not been set.

Off-Setting Revenue. Off-Setting revenue shall be the sum of the following items:

- (a) Any provider funds (including but not limited to public and private grants, gifts, contributions, bequests, endowments, or any income therefrom, funds received from the Job Training Partnership Act, the Massachusetts Department of Education's Bureau of Nutrition, or similar funding) to the extent that these sources are restricted to use in the program and during the year for which a price is developed;
- (b) the amount of unrestricted funds voluntarily designated by the provider to defray the cost of program services to a purchasing agency;
- (c) the fair market value of any public employees assigned to work in the provider's program (including salaries, fringe benefits and travel allowances) and/or the occupancy of public facilities to the extent that they are available to the program without charge or at less than the component price;
- (d) any funds (including but not limited to Supplemental Social Security Income, Food Stamps, General Relief benefits, reimbursements from third-party payors, client sliding fee scale payments) received by or available to the provider during the price year on account of clients;
- (e) in the case of commercial services, such as production/service work, a deduction may be taken for the commercial income derived from the provision, production or assembling of commercial services by clients;
- (f) the value of funds used to defray non-reimbursable costs; and,
- (g) funds accrued in excess of the limitations established in 808 CMR 1.19(3).

Office for Children. An office of the Commonwealth established by M.G.L. c. 28A.

1.02: continued

Operating Capacity. The maximum number of service units of a program for which there is adequate planned and budgeted space, equipment and staff, as determined and certified by the primary program purchaser. Operating capacity cannot exceed licensed capacity.

Out-of-State Provider. Any legal entity that operates all of its programs outside the Commonwealth of Massachusetts.

Out-of-State Agency. A state other than the Commonwealth of Massachusetts or any department, agency board, commission, office or political subdivision of that state.

Price. The amount in dollars to be paid for a given service or program regardless of how expressed. Also referred to as "rate".

Price Year or Year. The year for which an authorized price is to be effective.

Pricing Bureau. A bureau established within the Division of Purchased Services by St. 1992, c. 133, s. 113, which includes the Special Education Pricing Unit.

Primary Program Purchaser. The purchasing agency which purchases the greatest portion of a particular program. In the case of a private school program, the Department of Education (DOE) shall be the primary program purchaser.

Private School/Approved Private School. A private day or residential school within or outside of the Commonwealth of Massachusetts which has been approved by the Department of Education pursuant to 603 CMR 18.00. Also referred to as M.G.L. c. 71B Approved Private School.

Private School Program. A program offered by an approved private school which also has been approved pursuant to 603 CMR 18.00.

Program. The delivery of one or more discrete services in an organized and coordinated fashion in order to achieve objectives common to all program participants.

Provider. An individual, sole proprietor, corporation, partnership, organization, trust, association, or other legal entity agreeing to provide services to clients of the purchasing agency.

Purchase-of-Service. The buying of social service programs for clients of purchasing agencies by the purchasing agencies through negotiating and contracting with private providers. For the purpose of 808 CMR 1.00, "Purchase-of-Service" does not include the purchase of private school programs.

Purchasing Agency. The Commonwealth of Massachusetts or any Secretariat, board, commission, department, division or agency of the Commonwealth of Massachusetts which is authorized to procure social services under the General Laws of the Commonwealth and which procures services under 808 CMR 2.00. In addition, for the purposes of social services purchased pursuant to M.G.L. c. 71B, "purchasing agency" includes the Department of Education, local education authorities, local school districts and public schools.

Rate Setting Commission. The department established within the Executive Office of Health and Human Services by M.G.L. c. 6A.

Reimbursable Operating Costs. Those costs reasonably incurred or expected to be incurred by a program in the provision of services with the exception of any costs delineated in accordance with 808 CMR 1.15.

1.02: continued

Related Party. Any of the following are considered a related party to the provider subject to disclosure and certain reimbursement restrictions when providing rent, services, loans, payments, conveyances, gifts, any other transactions or having receivables or payables associated with a transaction to or from the provider:

(a) A person who is or was within the preceding five years a director, stockholder, partner, administrator, manager or trustee of the reporting provider, or a relative of such a person, or an organization in which a person, who currently serves as a director, stockholder, partner, administrator, manager or trustee of the organization, or a relative of such a person, is, or was within the preceding five years, a director, stockholder, partner, administrator, manager or trustee of the reporting provider. "Relative" shall mean parent, child, brother, sister (whether by whole or half-blood), spouse, adopted child, adoptive parent, stepparent, stepchild, father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law, daughter-in-law, grandparent or grandchild; or.

(b) Any organization, corporation, partnership, or fiduciary trust where any common ownership or control is held by a person who falls within the scope of paragraph (a) above or by a relative of such a person. "Control" is the ability to influence the policies and actions of an enterprise through ownership of voting stock, contracts and/or other methods, as defined by the AICPA Financial Accounting Standards Board in Statement of Financial Accounting Standard No. 57; or is the ability of an individual or organization, directly or indirectly, to significantly influence or direct the actions or policies of an organization or institution; or.

(c) Another corporation, partnership, organization or individual doing business solely with the reporting provider or the provider's related parties; or.

(d) A person or organization associated or affiliated with the reporting provider. A person or organization is associated when the person or organization engages in a joint program or business venture directly or indirectly in which the provider or other person or organization receives direct or indirect financial benefit. A person or organization is affiliated when the person or organization:

1. controls a provider; or
2. is controlled by a provider; or
3. is under common control with the provider.

The control may be direct or indirect. A provider or company is under common control with the provider through common ownership or management, even though no transaction occurred, if the common control could have a material impact on the financial statements of the reporting provider, as provided in AICPA Statement of Financial Accounting Standard No. 57. For the purpose of this paragraph, "common ownership" exists where there is direct or indirect ownership of ten percent or more in value of voting stock or five percent of financial interest in the capital assets or profits of any organization.

Reporting Year. The provider's fiscal year which is used when reporting to the Division on the Uniform Financial Statements and Independent Auditor's Report ("UFR").

Restricted Funds. Current restricted funds as defined in the UFR as funds which have been designated to a specific use by their donor and which are currently available for that use alone. Funds which have been restricted as to application by the board of the provider are not considered restricted.

Service Unit. A measurable unit of program activity, productivity or performance as determined by the purchasing agency. The service unit may be measured in an unit of time, such as an hour of counseling or a residential day; or by the completion of a prescribed procedure, such as a client evaluation; or by any other measurable unit of service. The reservation of all or a portion of a program's operational capacity for the purchasing agency's exclusive use, whether or not the capacity is in fact utilized, may constitute a service unit, if the contract so provides.

1.02: continued

Social Service Program. Any social, habilitative, rehabilitative, health, mental health, mental retardation, special education, employment and training, or elder services program, including any program provided pursuant to M.G.L. c. 71B, but excluding any program or service which is reimbursable under Title XIX of the Social Security Act.

Special Education Program Pricing Unit. A unit established within the Division of Purchased Services by St. 1992, c. 133, s. 113 with responsibility for establishing the methodology and prices for special education programs and services.

Specialized Placements. Placements approved by the Department of Education or other purchasing agency to programs not approved under M.G.L. c. 71B, to meet the requirements of an IEP or ISP of clients with unique placement needs. These placements are referred to as "sole source" placements in St. 1992, c. 133, s. 113.

Submit or Submission. To deliver a document by hand or by depositing it with the U.S. Post Office or other delivery service, postage pre-paid.

Suspension. The immediate, temporary disqualification of an organization or individual who is suspected upon adequate evidence of engaging or having engaged in conduct which constitutes grounds for debarment, pursuant to the provisions of 808 CMR 1.20 and 808 CMR 2.15. A suspension shall not exceed three months unless administrative, such as debarment, or judicial proceedings, civil or criminal, are instituted against the provider within that time.

Uniform Financial Statements and Independent Auditor's Report. The Uniform Financial Statements and Independent Auditor's Report developed by the Division of Purchased Services and required to be filed by providers of social service programs with the Division. Also referred to as the UFR.

Unrestricted Funds. Current unrestricted funds defined in the Uniform Financial Statements and Independent Auditor's Report as funds which have not been restricted to a specific use by their source. Funds which have been "restricted" or "designated" by the organization's governing body to a specific use are unrestricted for these purposes.

Utilization. The total number of service units actually delivered or budgeted to be delivered, regardless of the amount or source of payment received.

1.03: General Provisions

(1) Payment of Prices. Only authorized or interim prices shall be paid by purchasing agencies for social service programs.

(2) Effective Date of Prices. Prices are effective as of the date of authorization of the contract, unless otherwise specifically stated or limited by law.

(3) Interim Prices. Unless the Division notifies the purchasing agency otherwise, within three calendar months of the interim price being filed with the Comptroller, the interim price becomes the authorized price.

(4) Authorization of Prices and Certification to the Comptroller. The Division of Purchased Services will authorize prices and provide notice of authorized prices to the Office of the Comptroller. The Division of Purchased Services will authorize a price by approving the negotiated, component or unit price or, in the case of a special education program, by directly certifying a price.

(5) Client Identification. No documents submitted to the Division of Purchased Services shall include information that identifies a client by name or by other means that includes personally identifiable information. Client identification numbers or another numbering scheme should be utilized.

1.03: continued

(6) Waiver of Regulations. Upon request of a purchasing agency or provider, the Division may waive the applicability of one or more provisions of 808 CMR 1.00, provided that all such requests and approvals:

- (a) are in writing signed by the head of the purchasing agency or the chief executive officer of the provider or a designee;
- (b) specify the transactions to which such waiver would apply and the provisions of 808 CMR 1.00 to be waived;
- (c) include a certification that the purchasing agency or provider has made a good faith effort to comply with said provisions; and
- (d) are accompanied by supporting documentation deemed sufficient by the Division to support the special circumstances or the need for the relief. Waivers do not affect the responsibility of a purchasing agency or provider to comply with other applicable regulations or statutes.

(7) 808 CMR 1.15 Prohibitions. The failure of a purchasing agency or the Division to identify violations of 808 CMR 1.15 in determining or authorizing a price shall not be deemed a waiver of violations of 808 CMR 1.15 which may be identified subsequently through administrative review or audit.

1.04: Filing and Reporting Requirements; Extensions; Penalties; Enrollment and Utilization Statistics

(1) Reporting for Annual Review. Each provider shall, on or before the 15th day of the fifth month after the end of its fiscal year, submit to the Division of Purchased Services a complete Uniform Financial Statements and Independent Auditor's Report (UFR) or a certification of exemption, in accordance with the regulatory standards and instructions contained in the Uniform Financial Statements and Independent Auditor's Report (UFR).

(2) Extensions. The Division may, for cause, pursuant to the regulatory standards and instructions contained in the Uniform Financial Statements and Independent Auditor's Report (UFR), grant one extension of the filing deadline for submission of the reporting requirements contained in 808 CMR 1.04(1) upon written request by the provider. A request for an extension must be received by the Division prior to the original due date.

(3) Penalties. Failure to file the Uniform Financial Statements and Independent Auditor's Report (UFR) as required, within 30 days of the filing deadline, may result in a delay of payment for up to ten percent, as determined by the Division, of the provider's monthly billing by its purchasing agencies. In addition, the Division may request that the purchasing agency determine that the provider is ineligible for the ready payment system under 815 CMR 3.10(1).

(4) Enrollment and Utilization Statistics. Every Approved Private School shall submit to the Division of Purchased Services a quarterly report which lists, by month, the year to date average enrollment and utilization of each of its programs. The reports shall be submitted in writing to the Special Education Program Pricing Unit by October 15, January 15, April 15, and July 15, and shall cover the three completed months which immediately precede the submission date of the individual reports.

1.05: Additional Information Requested by the Division; Examination and Availability of Records; Field Audits

(1) Requests for Additional Information. Each provider and purchasing agency shall file such additional information as the Division of Purchased Services may from time to time require no later than 21 days after the date of the postmark of a written request. If the Division's request for the missing or additional information and/or documentation is not fully satisfied through the submission of written explanations(s) and/or documentation within 21 days of the postmark of that request and an extension has not been granted, all costs relative to the request shall be excluded from any price calculation. A written request for an extension must be received by the Division prior to the expiration of the 21 days.

(2) Availability of Records. Each provider shall make all records relating to its operation available for audit.

1.05: continued

(3) Document Retention. All documents used in determining a proposed price or in support of a price request shall be retained by the provider and purchasing agency for seven years from the date of final payment.

(4) Certifications. All materials submitted by a provider to the Division of Purchased Services shall be certified under pains and penalties of perjury as true, correct and accurate by a Massachusetts independent public accountant engaged by the provider or by the Executive Director or Chief Financial Officer of the provider.

(5) Examination of Records. Upon request of the Division, a provider shall make available for inspection all records relating to its operations and all records relating to a related party, service or holding company or any entity in which there may be a common ownership or interrelated directorate.

(6) Field Audits. The Division of Purchased Services may coordinate and conduct field audits. The Division will attempt to schedule audits at times which are convenient for all parties.

(7) Audit Resolution Policy. The Division will develop and amend, from time to time, an audit resolution policy in accordance with generally accepted government auditing standards. The policy will provide a process for determining the purchasing agency to be primarily responsible for developing and implementing corrective action and executing a corrective action plan with a provider, and may include provisions for recoupment and price adjustment.

1.06: Price Structure

(1) Fee-For-Service. Agreements for services with a stable and measurable unit of service must be purchased on a fee-for-service basis unless the provisions of 808 CMR 1.06(2) or (3) apply. Fee-for-service includes purchasing by negotiated prices, by component pricing, and/or by unit prices. Private school programs are deemed to be reimbursed on a fee-for-service basis.

(2) Accommodations Purchase. Agreements for services without a predictable measure of client utilization, where the service is required to be available on a routine basis notwithstanding the quantity of services actually delivered (e.g., emergency services) may be purchased by means of the establishment of a temporal (e.g., hourly, daily, weekly, monthly) unit rate, called "Accommodations Purchase". Accommodations Purchase must not be used as a substitute for fee-for-service purchase where an agreement is otherwise covered by the provisions of 808 CMR 1.06(1).

(3) Cost Reimbursement. Purchasing agencies may purchase services on a cost reimbursement basis only if:

- (a) The contract is in the start-up year; or
- (b) The purchasing agency has reason to monitor the actual expenditures of the provider; or
- (c) Special circumstances exist which make service delivery under the fee-for-service or accommodations purchase provisions impractical or undesirable.

Permission to utilize cost reimbursement agreements under the provisions of 808 CMR 1.06(3)(c) may be authorized by the Division of Purchased Services in accordance with Division policy.

1.07: Price Determination for Negotiated Programs

808 CMR 1.07 applies to prices determined by negotiation and does not apply to private school programs. Price determinations for private school programs are governed by 808 CMR 1.08.

(1) Eligibility. To be eligible for a price determination, a provider must submit on an annual basis a Uniform Financial Statements and Independent Auditor's Report (UFR) as required by 808 CMR 1.04.

1.07: continued

(2) Submission. A provider shall submit to its purchasing agency completed negotiated budget and price calculation forms prepared in accordance with their accompanying instructions.

(3) Review. Upon receipt of a provider's negotiated budget and price calculation forms, the purchasing agency will review the forms to verify that they have been prepared in accordance with their instructions and to review whether the costs contained in them violate the provisions of 808 CMR 1.15. To the extent the forms have not been completed according to the instructions or to the extent the costs contained therein violate the provisions of 808 CMR 1.15, the purchasing agency or the provider must correct the forms accordingly.

(4) Adjustments. Following a review of a provider's completed negotiated budget and price calculation forms by the purchasing agency according to 808 CMR 1.07(3), the provider and the purchasing agency (hereafter referred to as the "negotiating parties") may jointly agree to make certain adjustments to the completed forms according to the provisions contained in 808 CMR 1.07(5). The resulting negotiated price shall be submitted in such format as required by the Division.

(5) Allowed Adjustments.

(a) Costs. The negotiating parties may adjust the negotiated budget and price calculation forms to reflect anticipated cost changes which will result from programmatic changes, agreed to by the negotiating parties, in the quantity and/or type of employees, plant, equipment, services, or other program components, provided that the resulting expense is not, nor has been, a disallowed cost according to 808 CMR 1.15.

(b) Income. The negotiating parties may adjust rate year off-setting income to reflect changes in income which are reasonably certain to occur.

(c) Price Year Utilization. The negotiating parties may adjust price year utilization subject to the following conditions:

1. Operating capacity has been increased or decreased resulting in a change in a program's cost.
2. Actual utilization does not accurately reflect the negotiating parties' best prediction of program utilization during the price year.
3. The negotiating parties shall explain in writing the reason for the adjustment including the basis for their prediction of the program's utilization during the price year and the increase or decrease in operating capacity.

(6) Negotiation Impasse. If during contract renewal negotiations, the negotiating parties fail to reach agreement on programmatic content, utilization, and outcomes at a defined price, then the negotiating parties may terminate the contract renewal negotiations. Prior to the termination of the negotiations, the parties shall document in writing the terms, conditions and price, or maximum obligation, of the last offer of the purchasing agency (the "impasse document"). The document must be signed by the parties and submitted by the purchasing agency to the Agency Head or designee for his/her information and to the Division of Purchased Services. The Agency Head or designee may resume negotiations with the provider or determine that the negotiations have been concluded. Where the negotiations have been concluded, the Agency Head may authorize the purchasing agency to negotiate and/or award the contract to a different provider. The Agency Head or designee should inform the Division of any resolution of the matter.

If a contract is awarded to a new provider, the negotiated price for the new provider should not exceed the price offered to the previous provider during renewal negotiations as provided in the impasse document and the terms and conditions should not be less restrictive or include less utilization. The terms and conditions and price for the new provider shall not be subject to amendment to increase the reimbursement price or to minimize the scope and terms of conditions without an accompanying decrease in price, for a minimum period of one year, unless an intervening event occurs, such as increased appropriation to the purchasing agency which results in across the board price increases to comparable providers of service.

1.07: continued

(7) Appeal of Purchasing Agency Action After Impasse.

(a) If a purchasing agency awards a contract to a new provider under 808 CMR 1.07(6), any provider who has executed an impasse document and is aggrieved by the action of the purchasing agency may appeal the award of the new contract to the Division of Purchased Services within 30 days of the award of the new contract. A provider is aggrieved if a new provider is offered or has received a price higher than that offered the provider or the terms and conditions of the new agreement are less restrictive or require less utilization than the terms offered the provider as set forth in the impasse document between the provider and the purchasing agency.

(b) The appeal to the Division shall be in writing and shall include a statement of the action in issue and a copy of the executed impasse document. A provider who has failed to sign an impasse document will be deemed to have waived appeal under this paragraph. The Assistant Commissioner or designee shall review the materials submitted. If the Assistant Commissioner finds that the provider is aggrieved, a meeting may be held with the purchasing agency and/or provider to review and discuss the matter. The Assistant Commissioner, where appropriate, will authorize a price for a new provider, only for services rendered prior to his/her review.

1.08: Price Determination For M.G.L. c. 71B Approved Private School Programs

(1) Price Determination for M.G.L. c. 71B Approved Private School Programs Located within the Commonwealth of Massachusetts or Outside the Commonwealth in a State where there is No State Rate or Price Setting Mechanism. 808 CMR 1.08(1) sets forth the rules to be applied by the Pricing Bureau in determining the annual tuition prices to be paid in Fiscal Year 1994 by Massachusetts purchasing agencies when purchasing M.G.L. c. 71B approved programs from M.G.L. c. 71B approved private schools located within the Commonwealth of Massachusetts or located outside of the Commonwealth in states which do not have a state rate or price setting mechanism.

The process and methodology contained in 808 CMR 1.08 does not determine the tuition price that a school may charge for its programs. 808 CMR 1.08 establishes the process and methodology for the determination of what Massachusetts and its purchasing agencies will pay for the school's programs. As a result, 808 CMR 1.08 does not impose a ceiling on the amount a M.G.L. c. 71B approved school may charge to other purchasers of the same or a similar program for which a price is established pursuant to 808 CMR 1.08 for Massachusetts purchasing agencies. For the purposes of 808 CMR 1.08, the term "purchasing agency" shall mean the Commonwealth of Massachusetts or any board, commission, department, division, agency, office, school district or political subdivision of the Commonwealth.

The pricing process set forth in 808 CMR 1.08 shall not result in the elimination of any position title, any full-time equivalent assigned to the position title, or any other item listed on the school's projected program budget(s) which is mandated by individual education plan, law or regulation or which is necessary to support the delivery of mandated educational and program services, whether the mandate is by individual education plan, law or regulation. The projected costs, however, set forth in program price applications will be subject to discussion and evaluation.

The process and methodology contained in 808 CMR 1.08 are based on the following principles:

1. that the prices established by the Pricing Bureau for the purchase by Massachusetts purchasing agencies of special education programs provided by M.G.L. c. 71B approved private schools should reflect the anticipated costs of providing the program services that the Commonwealth and cities and towns choose to purchase because they are mandated by individual education plans, law or regulation or they are reasonably necessary to provide mandated program services;
2. that the pricing methodology should encourage cost efficiency in the provision of special education services by M.G.L. c. 71B approved schools;

1.08: continued

3. that the pricing methodology should support where possible provider efforts to raise direct care workers' salaries to the low end of the price ranges contained in the Component Price Catalogue dated January 14, 1992 (808 CMR 3.00) for the positions; and,

4. notwithstanding other objectives, in no event should an annual price determined to be paid by Massachusetts purchasing agencies through the system-wide price determination process contained in 808 CMR 1.08 increase from Fiscal Year 1993 to Fiscal Year 1994 by more than inflation, as demonstrated by the cost inflation factor determined by the Division of Purchased Services under St. 1992, c. 133, s. 113; extraordinary circumstances experienced by a school requiring a greater increase should be addressed, where appropriate, through the provisions of 808 CMR 1.12.

(a) Designation of Approved Schools for Pricing Purposes. The Pricing Bureau will assign all M.G.L. c. 71B approved schools to one of two groups, Section A and Section B. Fiscal Year 1994 prices for Section A school programs will be determined through the process described in 808 CMR 1.08(1)(f). Prices for Section B school programs will be determined as provided in 808 CMR 1.08(1)(g).

(b) Criteria for Designation to Section A. Schools which fall within the following categories will be designated Section A schools:

1. schools whose costs for one or more programs as reported on the Uniform Financial Statements and Independent Auditor's Report (UFR) filed for Fiscal Year 1991 exceeded the Fiscal Year 1991 annual price authorized pursuant to St. 1990, c. 150, ss. 42-44 for the program(s) by 15 or more percent;

2. schools whose costs for one or more programs as reported on the Uniform Financial Statements and Independent Auditor's Report (UFR) filed for Fiscal Year 1991 were below the Fiscal Year 1991 annual price authorized pursuant to St. 1990, c. 150, ss. 42-44 for the program(s) by 15 or more percent; and,

3. schools designated by the Pricing Bureau for good cause.

For the purpose of determining costs per program, the Pricing Bureau will divide total program expenses, as reported on the Fiscal Year 1991 UFR by the average year-to-date enrollment for Fiscal Year 1991.

(c) Criteria for Designation to Section B. All schools not selected as Section A schools under 808 CMR 1.08(1)(b) or (e) will be designated Section B schools.

(d) Notification of Designation. The Pricing Bureau will inform M.G.L. c. 71B approved schools in writing of their assignment to Section A or Section B. All M.G.L. c. 71B approved programs operated by the same school will be assigned to the same section.

(e) Change in Designation. The Pricing Bureau may reassign a school if the reassignment would be in the public interest. In determining whether reassignment would be in the public interest, the Pricing Bureau may consider whether an error was made in the initial assignment of the school, any unique circumstances experienced by a school, and any additional reasons a school might provide in support of a reassignment. To request reassignment, a school must submit a written request which states the reasons for requesting the reassignment to the Pricing Bureau within 15 calendar days of the postmark of the notice of assignment. The Bureau will notify the school of any action on the request.

(f) Price Determinations for Section A Programs.

1. Price Application Filing and Required Information. The Pricing Bureau's notification to Section A schools pursuant to 808 CMR 1.08(1)(d) or (e) shall include a price determination application for Fiscal Year 1994. An application, in the form determined by the Pricing Bureau, must be completed in full for each M.G.L. c. 71B approved program operated by the school and returned to the Pricing Bureau in accordance with the instructions and time frames contained therein. Blank application forms may be reproduced by photocopying.

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2. Price Application Evaluation. Upon receipt of a fully completed Fiscal Year 1994 price application, the Pricing Bureau will assign the application to an advisory pricing committee as provided in 808 CMR 1.08(1)(f)3, which will review, discuss and make recommendations regarding the program price application to the Pricing Bureau pursuant to 808 CMR 1.08(1)(f)4, and 5. All applications submitted by a school will be assigned to the same pricing committee. If the Pricing Bureau and school agree to proceed without review by a pricing committee, the Pricing Bureau will review the application as described in 808 CMR 1.08(1)(f)4, using the Evaluation Tools and Evaluation Criteria set forth in 808 CMR 1.08(1)(f)5, and 6, and will authorize a price pursuant to 808 CMR 1.08(1)(f)8.

3. Pricing Committee Composition and Responsibilities. The Pricing Bureau will convene a pricing committee to review a school's program price application(s) for the purpose of assisting and advising the Pricing Bureau in the evaluation of the school's application(s). The composition of the committee will be determined by the Pricing Bureau and may include a representative of the Pricing Bureau, a representative of the Department of Education, at least one representative of a Local Education Authority and a representative of another M.G.L. c. 71B approved private school whose application(s) are under review. If a school receives funds from an agency within the Executive Office of Health and Human Services, the agency may designate an agency representative to participate in the pricing committee.

There should be no evidence of undue bias or past engagements which may unduly influence either the quality or the nature of the participation of a given individual on the pricing committee.

A representative of the school will be invited to attend all meetings of the pricing committee on the school's program price applications for the purpose of addressing questions and providing additional information to assist in the evaluation of the price application. The pricing committee meeting may proceed in the absence of any member, except no meeting will take place in the absence of a representative of the Division of Purchased Services or the Department of Education.

4. Review Process. The pricing committee will review the price application using the Evaluation Tools and Evaluation Criteria set forth in 808 CMR 1.08(1)(f)5, and 6, to determine (1) how program costs may be adjusted, and efficiencies may be achieved without the elimination of any position title, any full-time equivalent assigned to the position title, or any other item listed on the school's projected budget(s) which is mandated by individual education plan, law or regulation or is necessary to support the delivery of educational services which are mandated by individual education plans, law or regulation; and, (2) whether the projected costs included in the program price application are reasonable. During the course of the pricing committee's review of the application, the school may agree to make adjustments to its program price application. In addition, in recommending adjustments to projected costs of the program price application, the pricing committee may not make recommendations relative to reduction in amounts to the items listed below, unless the reduction of these items is necessary to achieve a program price within the inflation limitation contained in 808 CMR 1.08(1)(f)8.:

- a. any projected direct care staff position cost increases over Fiscal Year 1993 costs which are necessary to raise the salary level of the position up to the low end of the component price range contained in the Component Price Catalogue dated January 14, 1992 (808 CMR 3.00) for the position;
- b. agency administration costs to the extent that they fall within the ranges contained in the Component Price Catalogue dated January 14, 1992 (808 CMR 3.00) as applied to the school's costs on a graduated basis.

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Upon completion of the committee's review, the committee members will make recommendations to the Pricing Bureau relative to the program price application. As part of the recommendation, a member may recommend that the school submit an amended program price application. Recommendations will be made available to the school whose application is under review for inspection and copying.

5. Evaluation Tools. The following information will be considered by the Pricing Bureau and the pricing committee when reviewing a program price application: the program price application submitted by the school for the program; the expenses of the program as contained in the UFR for Fiscal Year 1991 for the school; the Cost Inflation Factor developed by the Division of Purchased Services for Fiscal Year 1994 in accordance with St. 1992, c. 133, s. 113, or any successor provision thereto; and, any other additional information provided to or developed by the Pricing Bureau for the purpose of evaluating price applications and projected program expenses. The Pricing Bureau will also consider any recommendations of pricing committee members.

6. Evaluation Criteria. The following criteria shall be considered by the Pricing Bureau and the Pricing Committee in evaluating a program price application: whether any position title, any full-time equivalent assigned to the position title, or any other item listed on the school's projected budget which is not mandated by an individual education plan, law or regulation or is not necessary to support the delivery of educational services which are mandated by individual education plan, law or regulation may be adjusted or eliminated; the reasonableness of mandated and/or non-mandated program costs as determined by comparison of projected program costs to the historical costs of other schools, by comparison to the program's historical costs, and by comparison to the component ranges contained in 808 CMR 3.00; the allowability of costs pursuant to 808 CMR 1.15; and, the necessity of costs to eliminate conditions which pose a threat to health and safety.

7. Application Amendments.

a. In Response to Committee Comments. Applications amended in response to a request under 808 CMR 1.08(1)(f)4. must be submitted to the Pricing Bureau within 15 calendar days of the pricing committee meeting at which the request was made or within 15 days of a request by the Pricing Bureau.

b. Corrections. If the Pricing Bureau identifies an error in the completion of an application or in any supporting documentation, the Bureau on its own initiative may correct the information and inform the school of the correction in the price notification or may request correction by the school.

8. Price Determination and Authorization. In accordance with the provisions of 808 CMR 1.08(1)(f)4., 5. and 6., after considering a Section A school's program price applications, amended Program Price applications, where appropriate, and any recommendations of a pricing committee, and for the reasons contained in its price authorization, the Pricing Bureau shall authorize Fiscal Year 1994 prices for the school's programs. In no event will a Fiscal Year 1994 authorized price for a Section A program determined under 808 CMR 1.08(1) exceed the program price in effect in Fiscal Year 1993 as of December 30, 1992 plus the Cost Inflation Factor developed by the Division of Purchased Services for Fiscal Year 1994 in accordance with St. 1992, c. 133, s. 113, or any successor provision thereto.

9. Failure to Respond.

a. Failure to File Price Application. If a Section A school fails to file an appropriately completed price program application for a program, the Pricing Bureau may authorize a Fiscal Year 1994 program price in an amount equal to the program price in effect for Fiscal Year 1993 decreased by one half of the Cost Inflation Factor developed by the Division of Purchased Services for Fiscal Year 1994 in accordance with St. 1992, c. 133, s. 113, or any successor provision thereto, or may take the program under Administrative Review pursuant to 808 CMR 1.14.

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- b. Failure to Respond to Recommendations. If a Section A school fails to provide a good faith response to a request that the school amend a program price application under 808 CMR 1.08(1)(f)4. or 808 CMR 1.08(1)(f)7., the Pricing Bureau may authorize a Fiscal Year 1994 price equal to the Fiscal Year 1993 price for the program.
- (g) Price Determination for Section B Programs.
1. Average Percentage Increase. The Pricing Bureau will calculate the average percentage increase for all Section A programs using the final program prices authorized under 808 CMR 1.08(1)(f)8. This average percentage increase will be applied to Section B Fiscal Year 1993 program prices to determine Section B Fiscal Year 1994 prices as provided in 808 CMR 1.08(1)(g)2.
 2. Price Authorization. The Pricing Bureau will authorize as the Fiscal Year 1994 price for a Section B program the program's Fiscal Year 1993 price as of December 30, 1992 increased by the average percentage increase determined pursuant to 808 CMR 1.08(1)(g)1.
- (h) Adjustment of Prices to Reflect Price Increases Due to Extraordinary Circumstances. Where appropriate, the Pricing Bureau will adjust prices authorized under 808 CMR 1.08(1)(f)8. and 808 CMR 1.08(1)(g)2. for Fiscal Year 1994 to reflect Fiscal Year 1993 price adjustments authorized under 808 CMR 1.12.
- (i) Effect of Failure to File the Uniform Financial Statements and Independent Auditor's Report. Notwithstanding any other provision of 808 CMR 1.00, if a Section A or Section B school fails to file a Uniform Financial Statements and Independent Auditor's Report (UFR) or certificate of exemption for the most recent reporting year, in accordance with the instructions contained in the UFR, the price(s) in effect for the school's program(s) for Fiscal Year 1993 shall remain in effect for Fiscal Year 1994.

(2) Price Determination for M.G.L. c. 71B Approved Private School Programs Located Outside the Commonwealth of Massachusetts in States where there is a State Rate or Price Setting Mechanism. If a M.G.L. c. 71B approved private school program is located outside the Commonwealth of Massachusetts in a state which has an established state rate or price setting mechanism, the Pricing Bureau will authorize as the price to be paid by Commonwealth purchasing agencies for the program, the price established, authorized or approved by the state in which the program is located, as long as that price is the lowest price for the program.

The following documents must be submitted by the school, in order for the Pricing Bureau to authorize a program price:

- (a) a Uniform Financial Statements and Independent Auditor's Report (UFR), or certificate of exemption, for the most recent reporting year, in accordance with the UFR's instructions;
- (b) a certification from the school that the price to be charged to purchasing agencies is the lowest tuition price for the program; and,
- (c) a copy of the authorization or approval by the state in which the program is located, including the effective dates of the price.

If the price established, authorized or approved by the state in which the program is located is not the lowest tuition price for the program, the school must include in its request the amount of the lowest tuition price for the program and the Pricing Bureau will authorize the lowest tuition price for the program.

Any price authorized under 808 CMR 1.08(2) shall be effective on the date that the Pricing Bureau takes action or on the effective date determined by the state in which the school is located, whichever is later.

Until a Fiscal Year 1994 price is authorized for a program subject to the provisions of 808 CMR 1.08(2), purchasing agencies shall continue to pay the price authorized for the program for Fiscal Year 1993.

(3) Review of Price Determination by the Assistant Commissioner. Any school or purchasing agency aggrieved by the price determined by the Pricing Bureau under 808 CMR 1.08(1)(f)8., 808 CMR 1.08(1)(g)2., 808 CMR 1.08(1)(h) and 808 CMR 1.08(2), and desiring a review thereof, may request that the Assistant Commissioner of the Division of Purchased Services, or designee, review the action by submitting a written request for review to the Assistant Commissioner within 15 calendar days of postmark or receipt in hand, whichever is earlier, of

1.08: continued

the Pricing Bureau's written decision. The written request for review must contain an explanation of the reasons for the request, including a statement describing how the party is aggrieved, and a copy of the Pricing Bureau's decision.

(4) Appeal to the Division of Administrative Law Appeals. Any school aggrieved by the Assistance Commissioner's action or failure to act under 808 CMR 1.08(3), and desiring a review thereof, may file an appeal under M.G.L. c. 7, s. 4H and St. 1992, c. 133, s. 113 with the Division of Administrative Law Appeals, within 30 days of notice of the Assistant Commissioner's decision under 808 CMR 1.08(3) or of the failure to act. The question on appeal of the decision shall be whether the Division of Purchased Services in taking the action challenged by the aggrieved party has properly applied its regulations.

1.09: Price Determination for New Programs

(1) Price Determination for New Negotiated Social Service Programs. The price of new negotiated social service programs shall be determined in accordance with the Component Price Catalogue and its instructions. To request an authorized price for a new negotiated social service program:

(a) The provider shall submit to its primary program purchaser completed negotiated budget and price calculation contract forms prepared in accordance with their instructions. Negotiated programs shall forward a clearly marked informational copy of the budget and price calculation forms to any secondary purchasing agencies.

(b) Upon receipt of a provider's negotiated budget and price calculation forms, the primary program purchaser must verify that they have been prepared in accordance with their instructions and review them for compliance with the provisions of 808 CMR 1.15. If the forms have not been completed according to their instructions or the costs violate the provisions of 808 CMR 1.15, the primary program purchaser or the provider must make appropriate corrections. The resulting price shall be submitted in such format as required by the Division.

(2) Price Determination for New Chapter 71B Approved Programs. To request an authorized price for a new program approved under M.G.L. c. 71B:

(a) The private school shall submit to its primary program purchaser completed budget and price calculation forms prepared in accordance with their instructions and using the component prices or price ranges contained in the Component Price Catalogue.

(b) Upon receipt of a private school's budget and price calculation forms, the primary program purchaser must verify that they have been prepared in accordance with their instructions and review them for compliance with the provisions of 808 CMR 1.15. If the forms have not been completed according to their instructions or the costs violate the provisions of 808 CMR 1.15, the primary program purchaser or the provider must make appropriate corrections. The primary program purchase will then submit the forms and the resulting price for review, adjustment and/or authorization by the Pricing Bureau.

(c) A price determined for a new program established and approved under M.G.L. c. 71B shall be subject to review and adjustment after six months based on the provider's actual expenditures. Six months after the effective date of the price or the date the program becomes operational, whichever is later, the provider shall submit actual expenditure reports in accordance with the instructions to the UFR, including an accountant's review report, to the Pricing Bureau with a copy to the primary program purchaser. Within 60 days of receipt of the required materials, the Bureau shall notify the provider of any adjustments to be made to its authorized price.

1.09: continued

(d) Review of Price Determination by the Assistant Commissioner. Any private school or purchasing agency aggrieved by the price determined by the Pricing Bureau under 808 CMR 1.09(2), and desiring a review thereof, may request that the Assistant Commissioner of the Division of Purchased Services, or designee, review the action by submitting a written request for review to the Assistant Commissioner within 15 calendar days of postmark or receipt in hand, whichever is earlier, of the Pricing Bureau's written decision. The written request for review must contain an explanation of the reasons for the request, including a statement describing how the party is aggrieved, and a copy of the Pricing Bureau's decision.

(e) Appeal to the Division of Administrative Law Appeals. Any private school aggrieved by the Assistant Commissioner's action or failure to act under 808 CMR 1.09(2)(d), and desiring a review thereof, may file an appeal under M.G.L. c. 7, s. 4H and St. 1992, c. 133, s. 113 with the Division of Administrative Law Appeals, within 30 days of notice of the Assistant Commissioner's decision under 808 CMR 1.09(3) or of the failure to act. The question on appeal of the decision shall be whether the Division of Purchased Services in taking the action challenged by the aggrieved party has properly applied its regulations.

1.10: Price Determination for Special Cases

(1) Prices for Individuals Providing Services. Purchasing agencies shall comply with the guidelines and instructions developed by the Division in establishing or negotiating a price to be paid under Object Code M01 and MM1 to individuals providing social services. 808 CMR 1.10(3) governs the process for determining individual prices pursuant to an IEP or ISP.

(2) Prices Pursuant to Judicial or Legislative Order. The Division shall authorize rates and prices determined by a method other than those provided for by 808 CMR 1.00 if such other manner is prescribed by a valid order of court of competent jurisdiction or of the Great and General Court of the Commonwealth of Massachusetts.

(3) Individual Prices. The following procedures apply to a request for authorization of an individual price:

(a) The LEA or other purchasing agency shall submit, within ten business days of an approval of, or an amendment to an IEP or ISP which requires the purchase of additional services for a client and additional cost above the authorized program price, a request for an individual price approval to the Division of Purchased Services on a form as required by the Division of Purchased Services. The request shall include a certification by the LEA or purchasing agency that the IEP or ISP as amended requires the additional services and the price requested.

(b) If the services to be provided and the price requested are within the scope of the Division of Purchased Services published list of authorized individual prices and services, entitled "Authorized Individual Prices and Services", the Division shall, within 15 days of receipt of the request, review and approve the request, deny the request or suspend the request for further information. Within 15 days of the receipt of any requested additional information, the Division of Purchased Services shall take action on the request.

(c) If the service to be provided or the price to be paid is not within the scope of the Division's published list of authorized prices and services, the requested price shall be authorized if the following conditions are met:

1. Within ten business days of the approval of, or an amendment to an IEP or ISP, the LEA or the purchasing agency shall submit the following materials to the Division: a completed Division of Purchased Services form, a statement certifying that the IEP or ISP has been amended to include the additional approved services, a statement describing why the published prices are not applicable or are inadequate including the sound business practices used in procuring the services, and the reasons why the proposed price is fair, reasonable and adequate.

1.10: continued

2. Within 30 days of receipt of the materials described in 808 CMR 1.10(c)1., the Division of Purchased Services shall review and authorize the price, deny the request, or suspend the request until the submission of further information. Within 30 days of the receipt of any requested additional information, the Division shall take action on the request.
 - (d) The Division shall provide written notice of the authorization of a price or denial of a request to the LEA or the purchasing agency and the affected provider.
 - (e) A price shall be effective as of the date of approval or amendment of the IEP or ISP or the date of any emergency authorization by the LEA or the purchasing agency.
- (4) Specialized Placement Price Approval. The following procedures apply to a request for authorization of a specialized placement price:
- (a) The Department of Education or other purchasing agency must submit a specialized placement price request packet to the Division of Purchased Services. The packet shall include an approval by the Department of Education or other purchasing agency of the specialized placement, a certification from the Department of Education or purchasing agency that no approved space is available, a certification from the provider that the price to be charged is the lowest price charged to any other purchaser of services, a copy of the provider's price or rate structure, any price or rates established for the provider by states other than Massachusetts and their effective dates, and a description of the price or rate setting process used, if any, to establish the proposed price.
 - (b) Within 30 days of receipt of the specialized placement price request packet, the Division of Purchased Services shall review the request and authorize the price, deny the request or suspend the request until the submission of further information. Within 30 days of the receipt of the requested additional information, the Division shall take action on the request. The Division shall provide written notice of the authorization of a price or denial of a request to the Department of Education or other purchasing agency and the provider. The price shall be effective as of the date of the approval of the IEP or ISP. Prices established under this provision are subject to the provisions of 808 CMR 1.17.
- (5) Special Circumstances. If the determination of a price pursuant to 808 CMR 1.00 would produce an unreasonable result and the provider and primary program purchaser consent, the Division may develop and authorize a price determined in any manner consistent with the Division's authority under St. 1992, c. 133, s. 113, or any successor provision thereto. Where a program does not fall within a particular provision of 808 CMR 1.00, the Assistant Commissioner may authorize a price determined in a manner consistent with the Division's authority under St. 1992, c. 133, s. 113, or any successor provision thereto.

1.11: Price Adjustment - Amendments to Negotiated Program Prices

- (1) A purchasing agency, or provider, may seek an adjustment to an authorized negotiated fee-for-service, accommodations purchase or cost reimbursement price during the price year if one of the following conditions is met:
 - (a) Operating costs change substantially, as a result of a change in either the statutory or regulatory requirements of any governmental agency;
 - (b) The budget of the purchasing agency substantially decreases or increases as a result of statutory changes therefore making necessary a change in the type or quantity of services purchased;
 - (c) Off-setting income is substantially different than that anticipated in the calculation of the authorized price;
 - (d) An increase in operating costs is experienced which is beyond the reasonable control of the provider and which gravely threatens clients' safety and well being;
 - (e) Utilization is substantially different than that used in the calculation of the authorized price; or
 - (f) Negotiated costs are substantially different than that anticipated in the calculation of the authorized price.

1.11: continued

(2) A provider seeking a price adjustment shall submit to its purchasing agency, with an informational copy to any secondary purchasing agencies, an amendment form and a price calculation form prepared in accordance with their instructions.

(3) Upon receipt of a provider's completed amendment and price calculation forms, the purchasing agency must review the forms to verify that they have been prepared in accordance with their instructions and to review them for compliance with the provisions of 808 CMR 1.15. To the extent that the forms have not been completed according to their instructions or to the extent costs violate the provisions of 808 CMR 1.15, the purchasing agency or the provider must correct the forms. The resulting price shall be submitted in such format as required by the Division.

1.12: Price Adjustment - Approved Private School Programs Extraordinary Relief(1) Conditions for Consideration of Extraordinary Relief.

(a) Where an Approved Private School program experiences additional expenses during the price year which it cannot absorb within its authorized price, the school may apply for a price adjustment for the program during the price year if the expenses are necessary to:

1. meet federal or state statutory, or local regulatory requirements, including Department of Education or Office for Children regulations and licensing requirements, not currently included in the authorized price;
2. account for unanticipated emergencies beyond the reasonable control of the provider; or
3. reflect costs attributable to extraordinary decreases in enrollment.

(b) To be eligible for extraordinary relief the conditions described in 808 CMR 1.12(1)(a)1. and 2. must have resulted from unforeseen events occurring after July 1 of the current fiscal year.

(2) Procedure. A request for extraordinary relief must include:

- (a) a detailed description of the situation which has caused the school to seek extraordinary relief;
- (b) price year income and expenses to date;
- (c) a copy of the program's budget for the most recently completed fiscal year using components consistent with those contained in the Uniform Financial Statements and Independent Auditor's Report (UFR) and instructions thereto;
- (d) a copy of the program's budget for the current fiscal year using components consistent with those contained in the Uniform Financial Statements and Independent Auditor's Report (UFR) and instructions thereto;
- (e) a list of LEAs and state purchasing agencies currently purchasing the program;
- (f) a requested price;
- (g) substantial evidence that the program's resources are insufficient to cover the expenses for which an adjustment is sought, including substantial evidence that the school has exhausted all programmatic and fiscal resources;
- (h) evidence that for each cost for which an adjustment is requested, the school has acted prudently, reasonably and in compliance with the law in incurring such a cost;
- (i) federal or state statutory or local regulatory citations supporting the request; and
- (j) documentation that the current operating expenses are in compliance with 808 CMR 1.15.

1.12: continued

For the purposes of 808 CMR 1.12, "programmatic and fiscal resources" shall not include unrestricted funds if the school has not voluntarily designated them for this use, but shall include, but not be limited to, surplus revenue as determined by the Division.

(3) Adjusted Price. If the Pricing Bureau, in conjunction with the Department of Education, and the Office for Children, where appropriate, determines that the provider meets the requirements of 808 CMR 1.12(1) and (2) and that extraordinary relief should be granted, the Pricing Bureau shall develop an adjusted price subject to the following conditions:

- (a) Any requested adjustments which do not qualify under 808 CMR 1.12(1) shall not be included;
- (b) Any requested adjustments which are non-reimbursable costs according to 808 CMR 1.15 shall not be included;
- (c) Where a request is pursuant to 808 CMR 1.12(1)(a)3., the Department of Education, and the Office for Children where appropriate, in conjunction with the Approved Private School, must develop a plan relative to utilization of the school and/or placement of its clients;
- (d) Any requested adjustments for administrative costs shall not be included;
- (e) The Pricing Bureau shall take action under 808 CMR 1.12 within 60 days of receipt of the documentation required under 808 CMR 1.12(2). The Pricing Bureau shall review the request to determine if all materials required under 808 CMR 1.12(2) have been submitted. If the Pricing Bureau's requests under 808 CMR 1.12(3)(e) and 808 CMR 1.05(1) for additional written information and/or documentation to support the request are not fully satisfied within 21 days of the date of the postmark of such requests, extraordinary relief will not be granted.
- (f) Where a request is pursuant to 808 CMR 1.12(1)(a)3., the adjusted price shall not exceed an amount equal to the reduction in tuition revenue experienced as a result of the declining enrollment divided by projected current average year-to-date enrollment. The reduction in tuition revenue shall be calculated using the enrollment and price corresponding to the year from which the decline is measured by the Pricing Bureau, based on the unique circumstances experienced by the program, as demonstrated in the request for relief.
- (g) Where a request is pursuant to 808 CMR 1.12(1)(a)1. or 2., the adjusted price shall not exceed an amount equal to the difference between the expense for the item in the most recently completed fiscal year and the current year's anticipated expense divided by current average year-to-date enrollment.
- (h) No adjusted price shall be effective prior to the date of authorization and no adjusted price shall include expenses incurred prior to the date of authorization.

(4) Review of Price Determination by the Assistant Commissioner. Any private school or purchasing agency aggrieved by the price determined by the Pricing Bureau under 808 CMR 1.12, and desiring a review thereof, may request that the Assistant Commissioner of the Division, or designee, review the action by submitting a written request for review to the Assistant Commissioner within 15 calendar days of postmark or receipt in hand, whichever is earlier, of the Pricing Bureau's written decision. The written request for review must contain an explanation of the reasons for the request, including a statement describing how the party is aggrieved, and a copy of the Pricing Bureau's decision.

(5) Appeal to the Division of Administrative Law Appeals. Any private school aggrieved by the Assistant Commissioner's action or failure to act under 808 CMR 1.12(4), and desiring a review thereof, may file an appeal under M.G.L. c. 7, s. 4H and St. 1992, c. 133, s. 113 with the Division of Administrative Law Appeals, within 30 days of notice of the Assistant Commissioner's decision under 808 CMR 1.08(3) or of the failure to act. The question on appeal of the decision shall be whether the Division of Purchased Services in taking the action challenged by the aggrieved party has properly applied its regulations.

1.13: Price Adjustment - Transfer of Program Ownership

(1) Transfer of Program Ownership. Costs associated with the transfer of program ownership will be recognized if the transfer of program ownership is recognized. A transfer of program ownership will be recognized only when the following criteria exist:

- (a) The transfer of program ownership did not occur between related parties;
- (b) The transfer of program ownership was made for reasonable consideration;
- (c) The transfer of program ownership was a bona fide transfer of all the powers and indicia of ownership;
- (d) The transfer of program ownership manifested an intent to sell the assets of the facility rather than implement a method of financing, or increase the transferor's or transferee's cost base; and
- (e) In the case of a financing agreement between the transferor and the transferee, the agreement is constructed to effect a complete transfer of program ownership and there is compliance with the terms of such agreement. The Division and/or the purchasing agency reserve the right to evaluate the relationship between the transferor and the transferee and monitor compliance with the agreement to assure a complete transfer of program ownership.

(2) Where there has been a recognized transfer of program ownership on or before the date of full depreciation of the asset in accordance with the service lives in 808 CMR 1.19(2), the reimbursable basis of fixed assets shall be:

- (a) For land, the lower of the acquisition cost or the basis allowed the immediate prior owner;
- (b) For furnishings, fixtures and equipment, the lower of the acquisition cost or the basis allowed the immediate prior owner reduced by the amount of actual depreciation (or principal payments in lieu of depreciation) included as reimbursable operating costs to the immediate prior owner;
- (c) For buildings, the lower of the acquisition cost or 100% of the most recent 100% property valuation reduced by the amount of actuarial depreciation (or principal payments in lieu of depreciation) included as reimbursable operating costs to the immediate prior owner, or an independent appraisal made by a qualified appraiser. For purposes of 808 CMR 1.13, appraisals using the income approach to establish value will not be recognized. In all transfers where the amount of actual depreciation (or principal payments in lieu of depreciation) reimbursed to the immediate prior owner is not known, the new owner shall have the burden of demonstrating the amount, or the amount will be reconstructed by the Division using the best available information.

(3) Where a transfer of program ownership has met the criteria contained in 808 CMR 1.13(1), interest expense to finance the transfer shall be allowed in accordance with the financing agreement subject to the following limitations:

- (a) The principal upon which interest expense is allowed shall not exceed the allowable basis of the fixed assets as determined in 808 CMR 1.15(17) and 1.19(2);
- (b) The price used to calculate allowable interest will not exceed reasonable prices. The Division will measure reasonableness by comparison with prevailing prices at the time of sale such as the prime rate as published in The Wall Street Journal plus one percent.

(4) Adjusted Price. The prices that have been established may be adjusted to:

- (a) Include those costs meeting the requirements of 808 CMR 1.13(2) and (3);
- (b) Exclude the prior owner's costs which are superseded by costs included in accordance with 808 CMR 1.13(4)(a).

(5) Effective Date. The effective date of the adjusted price shall be the date when the transfer of program ownership occurs, subject to the review and approval of the purchasing agency.

1.14: Administrative Review

The Division of Purchased Services may conduct a review of programs and authorized prices for good cause, including for but not limited to, the following reasons: failure to incur costs for items included in the initial price approval process or any later adjustment, failure to provide the purchased program services, or failure to implement approved non-programmatic or program changes included in the price year reimbursable operating costs.

(1) Notice of Administrative Review. The Division of Purchased Services shall initiate administrative review by notifying the provider and the purchasing agency(ies) on whose behalf the services are being provided that it intends to conduct an administrative review. The notification shall be in writing and shall include a statement of reasons for the review.

(2) Request for Information. The Division of Purchased Services may require that the provider and purchasing agencies submit books, records and other information necessary for its review. The Division shall send a written request for information and requested material must be submitted to the Division within 21 days of the postmark of the request.

(3) Results of Administrative Review. The Division of Purchased Services shall notify the provider and the purchasing agencies in writing of the results of the administrative review. The review may result in an amendment to an authorized price.

(4) Appeal. A provider or purchasing agency aggrieved by the results of the Division's administrative review may file an appeal with the Division of Administrative Law Appeals under M.G.L. c. 7, s. 4H within 30 days of receipt of notification from the Division of Purchased Services.

1.15: Non-Reimbursable Costs

The Commonwealth in purchasing a social service program will not pay for costs which have been identified in 808 CMR 1.15(1) - (22) as "non-reimbursable costs." A provider should include and identify the non-reimbursable costs in the program budget. The provider should also include the offsetting revenue used to defray the non-reimbursable costs in the program budget. Where it is determined that an authorized price includes(d) non-reimbursable costs because the costs were not identified in the program budget, the costs will be subject to recoupment by the Commonwealth. The following are non-reimbursable costs:

(1) Unreasonable Costs. Any amount paid for goods or services which is greater than either the market price or the amount paid by comparable agencies or governmental units within or outside of the Commonwealth.

(2) Certain Depreciation.

(a) Depreciation for assets to the extent that the assets have previously been depreciated by the provider.

(b) Depreciation which is not computed employing one of the following methods:

1. an historical cost basis;
2. a straight line method;
3. using a schedule of asset service lives pursuant to 808 CMR 1.19(2); or
4. charging one half of the annual depreciation expense in each of the years of acquisition and disposal.

(c) Depreciation on idle, excess, or donated assets or on that portion of an asset's historical cost basis which was paid for from restricted funds.

(d) Depreciation on assets acquired under a capital budget approved by a public agency entirely with public funds and held in trust for the Commonwealth of Massachusetts under the terms of a service contract.

(e) Depreciation which is not computed according to 808 CMR 1.15(2) may be recalculated by the Division according to 805 CMR 1.15.

1.15: continued

(3) Certain Interest.

(a) Any interest paid or accrued upon funds advanced or borrowed from any owner, partner, officer, stockholder, related party, or affiliated or parent organization which exceeds the prime rate plus one percent as published in The Wall Street Journal for similar obligations issued at the same time and for the same amount of time.

(b) Any interest paid or accrued to inter-fund borrowing.

(c) Any interest paid or accrued during the reporting year which is not supported by documentation and certification to demonstrate that payment of interest and repayment of principal are required under a definite schedule, or upon demand, pursuant to a written contract.

(d) Any interest or penalties incurred because of late payment of loans or other indebtedness, late filing or payment of federal and state tax returns, municipal taxes, unemployment taxes, social security, and the like.

(e) Any interest paid or accrued upon funds advanced or borrowed to the extent of income received or accrued from the investment of restricted funds which were available to defray all or a portion of the expenses to which borrowed or advanced funds were applied.

(4) Current Expensing of Capital Items. The cost of acquisition of an asset having a useful life of more than one year and full cost of repair, betterment, or improvement of an asset which adds to the permanent value of the asset or which appreciably prolongs its useful life if the cost exceeds \$500.00. A group of related assets, repairs, betterments, or improvements, if the aggregate cost exceeds \$500.00, may not be expensed in the reporting period. The Division may depreciate the asset or assets according to 808 CMR 1.15(2).

(5) Certain Salaries and Consultant Compensation. Those salaries, wages, and consultant compensation considered to be excessive by the Division, in light of salaries, wages and consultant compensation of other comparable providers.

(6) Bad Debts. Those amounts which represent uncollectible accounts receivable (whether estimated or actual), and any related legal cost.

(7) Taxes. Federal corporate income taxes and the income related portion of the Massachusetts corporate excise tax.

(8) Certain Costs Paid to a Related Party. Costs applicable to services, facilities, and supplies furnished to the provider by a related party to the extent that such costs exceed the costs to the related party of providing said services, facilities or supplies. Costs to the related party shall be allowable only to the extent that they would be allowable if incurred by the provider. For example, the price published in the Component Price Catalogue or established by the Rate Setting Commission would be allowable. However, where a provider has failed to disclose a related party transaction, only the lower of actual costs, costs established in the Component Price Catalogue or market value will be allowable.

(9) Certain Fringe Benefits.

(a) Fringe benefits determined to be excessive in light of salary levels and benefits of other comparable providers and fringe benefits to the extent that they are not available to all employees under an established policy of the provider. Disparities in benefits among employees attributable to length of service, collective bargaining agreements or regular hours of employment shall not result in the exclusion of such costs.

(b) Employer contributions to pension, annuity, and retirement plans which have not been approved by the Internal Revenue Service.

1.15: continued

(10) Fundraising Expense. The cost of activities which have as their primary purpose the raising of capital or obtaining contributions including the costs associated with financial campaigns, endowment drives, and solicitation of gifts and bequests. However, if the program does not, or cannot reasonably be expected to, receive federal funds, the cost of activities which have as their express purpose the raising of capital or obtaining contributions for Commonwealth programs may be off-set against the revenue generated, except no loss will be reimbursable. To be reimbursable, the provider must maintain accounting systems which adequately segregate those fundraising expenses and revenues associated with Commonwealth purchased programs from other provider programs in accordance with generally accepted accounting principles.

(11) Travel Allowances. Any amount advanced, paid, or accrued to reimburse the provider's employees for the use of a private motor vehicle on official agency business in excess of the amount allowed under the United States Internal Revenue Code ss. 61 and 62.

(12) Non-Program Expenses. Expenses of the provider which are not directly related to the social service program purposes of the provider.

(13) Security Deposits. Money deposited by the provider with a lessor of real property as security for full and faithful performance of the terms of a provider's lease.

(14) Free Care. Costs associated with free service and use.

(15) Research. The costs related to the conduct of grants, contracts, investigations, or programs directed at the understanding, cause or alleviation of physical, mental or behavioral conditions. All costs of salaries, supplies, equipment, and overhead which are directly related to research are to be excluded. Data gathering and program analysis are not considered to be research.

(16) Management Agency Fees. Fees charged to the provider by a management agency which exceed the costs the provider would have incurred had it not entered into a management agreement. For example, the price published in the Component Price Catalogue or established by the Rate Setting Commission would be allowable.

(17) Costs resulting from a change of assets.

(a) Where there has been a transfer of program ownership recognized under 808 CMR 1.13 any costs in excess of costs allowed under 808 CMR 1.13.

(b) Where there has been an exchange of assets between providers and which exchange did not occur between related parties, and was made for reasonable consideration, and was a bona fide transfer of all powers and indicia of ownership, and manifested an intent to sell the assets rather than implement a method of financing or implement an increase of the transferor's and transferee's cost bases, those costs in excess of:

1. For land, the lower of the acquisition cost or the basis allowed the immediate prior owner;
2. For furnishings, fixtures and equipment, the lower of the acquisition cost or the basis allowed the immediate prior owner reduced by the amount of actual depreciation (or principal payments in lieu of depreciation) included as reimbursable operating costs to the Commonwealth;
3. For buildings, the lower of the acquisition cost or 100% of the most recent 100% property valuation reduced by the amount of actual depreciation (or principal payments in lieu of depreciation) included as reimbursable operating costs to the immediate prior owner, or an independent appraisal made by a qualified appraiser. For purposes of this section appraisals using the income approach to establish value will not be recognized.

1.15: continued

(c) In all transfers where the amount of actual depreciation (or principal payments in lieu of depreciation) reimbursed to the immediate prior owner is not known, the new owner shall have the burden of demonstrating the amount, or the amount will be reconstructed by the Division using the best available information.

(d) Where there has been an exchange of assets by a related party, costs in excess of the costs previously allowed to the related party's provider for the exchanged assets.

(e) Where there has been an exchange of assets between providers which exchange is not recognized under 808 CMR 1.15(17)(a),(b) or (c) or such exchange results in a sale-lease back, costs in excess of the transferor's allowable costs for the exchanged assets.

(18) Lobbying Costs. Funds used to compensate or reward lobbyists, consultants or staff to promote, oppose, or influence legislation, or influence the governor's approval or veto thereof or to influence the decision of any member of the Executive branch where such decision concerns legislation or the adoption, defeat, or postponement of a standard, rate, rule or regulation pursuant thereto, and any costs associated with lobbying activities. This prohibition shall apply where the lobbyists, consultants or staff, as any part of their regular and usual employment and not simply incidental thereto, attempt to promote, oppose or influence legislation, approval or veto, or regulations, whether or not any compensation in addition to the salary for such employment is received for such services.

(19) Certain Reporting Year Expenditures. Reporting year expenditures in the operating fund for which restricted funds were available but not used.

(20) Itemized Deductions. All expenses not qualifying as itemized business deductions under the United States Internal Revenue Code.

(21) Litigation Costs. Costs of legal, accounting and consulting services, and related costs, incurred in connection with the prosecution of claims against purchasing agencies or the pursuit of an unsuccessful price appeal are unallowable.

(22) Unallowable Costs under OMB Circular A-122 and A-21. Costs which are not allowable under OMB Circular A-122 and A-21 are non-reimbursable to programs which receive Federal financial assistance.

1.16: Effect of Pending Appeals

The pendency of an appeal under 808 CMR 1.07(7), 808 CMR 1.08(3), 808 CMR 1.08(4), 808 CMR 1.09(3), 808 CMR 1.09(4), 808 CMR 1.12(3) or 808 CMR 1.12(4) does not limit the Division's right to undertake an audit under 808 CMR 1.05(f) an administrative review of any authorized program price under 808 CMR 1.14, or to take other appropriate corrective action.

1.17: Price Limitation

(1) No program's authorized price may exceed the lowest fee (excluding any fee based on a sliding fee scale) that is charged to the general public or any third party payor.

(2) Except as provided in 808 CMR 1.17(1) no purchasing agency may pay other than the authorized price.

1.18: Reimbursement as Full Payment

Each provider shall, as a condition of acceptance of payment made by one or more purchasing agencies for service provided, accept the program's authorized price, as established by the Division pursuant to 808 CMR 1.00, as full payment and discharge of all obligations for the services so provided. There shall be no duplication or supplementation of payment from sources other than those expressly recognized or anticipated in the computation of the price. Any client resources or third party payments made on behalf of a client, not expressly recognized or anticipated in the computation of the price, shall reduce the amount of the appropriate purchasing agency's obligation for service rendered to the client.

1.19: Reporting Forms, Schedules and Instructions: Schedule of Asset Service Lives: Not-for-Profit Provider Surplus Revenue Retention

(1) The reporting forms referenced in 808 CMR 1.04 and elsewhere, and their schedules and instructions, are incorporated herein. These forms include, but are not limited to, the Uniform Financial Statements and Independent Auditor's Report (UFR), the negotiated budget form, the amendment form and the price calculation form.

(2) Schedule of Asset Service Lives.

(a) The following schedule of asset service lives shall govern the depreciable life to be used in determining the amount of allowable depreciation expense under 808 CMR 1.00 for the asset categories listed. This listing is not exhaustive. The service lives of assets not properly includable within any of the following categories shall be determined in accordance with the Division's guidelines.

<u>Asset Category</u>	<u>Life</u>	<u>Yearly Rate</u>
<u>Buildings</u>		
Type 1 or 2 Construction as classified by the Department of Public Safety in accordance with 780 CMR 402.0 and 403.0	40 years	2.5%
Type 3 or 4 Construction as classified by the Department of Public Safety in accordance with 780 CMR 404.0 and 405.0	27.5 years	3.6%
<u>Building/Improvements</u>	20 years	5.0%
<u>Leasehold Improvements</u>	5 years	
	(or the term of the lease whichever is greater)	
<u>Equipment</u>	10 years	10.0%
<u>Computer Equipment</u>	5 years	20.0%
<u>Life Safety Improvements</u>		
Building or leasehold improvements or equipment acquisitions made solely to satisfy the requirements of any purchasing agency regarding life safety or physical environment. The purpose of such improvements must be documented.	5 years	20.0%
<u>Motor Vehicles</u>	5 years	20.0%
<u>Used Motor Vehicles</u>	3 years	33.33%
<u>Residential Furnishings</u>	3 years	33.33%
<u>Office Furnishings</u>	7 years	14.2%

(b) In circumstances where the useful life employed by the provider differs, because of greater or lesser consumption, from that cited herein, the provider may request of the Division an exception to the cited useful life in the calculation of allowable depreciation. The request must be forwarded to the Division, in writing, and provide adequate documentation to substantiate the request.

1.19: continued

(3) Not-for-Profit Provider Surplus Revenue Retention. If through cost savings initiatives, a non-profit provider accrues a surplus, the annual excess, up to five percent of total revenues, over expenditures for delivering services under all public agreements to provide social services to clients of the Commonwealth, shall be retained by the provider for charitable purposes. The cumulative amount of surplus which can be retained over time, regardless of discretionary provider expenditure from such accumulated surplus, may not in total exceed 20% of the provider's prior year's gross revenues from purchasing agencies. The Division shall be responsible for determining whether a surplus exists and for considering surplus funds in future prices. Surplus funds which fall within the limitations contained in 808 CMR 1.19(3) shall not be used to determine future prices unless a provider voluntarily designates them as available to offset program costs.

1.20: Debarment

Any provider subject to the authority of the Division of Purchased Services under St. 1992, c. 133, s. 113, or any predecessor or successor provision thereto, or 808 CMR 1.00 shall be subject to debarment or suspension pursuant to the provisions of 808 CMR 2.15.

1.21: Severability of the Provisions of 808 CMR 1.00

The provisions of 808 CMR 1.00 are severable, and, if any provision of 808 CMR 1.00 or its application shall be held to be invalid or unconstitutional, such invalidity shall not be construed to affect the validity or constitutionality of any remaining provisions of 808 CMR 1.00 or application of such provisions to providers or fiscal intermediaries under circumstances other than those held invalid.

REGULATORY AUTHORITY

808 CMR 1.00: ST. 1992, c. 133, s. 113

NON-TEXT PAGE

808 CMR 2.00: PROCEDURES FOR THE PROCUREMENT OF SOCIAL SERVICES

Section

- 2.01: Scope, Purpose, and Authority
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2.01: Scope, Purpose, and Authority

(1) Application. 808 CMR 2.00 shall apply to any Executive Office, Department, Agency, Board, Commission, or Institution of the Executive Department excluding the Legislative and Judicial Branches, the Constitutional Offices, the Public Institutions of Higher Education and independent public authorities. 808 CMR 2.00 does not apply to services provided by another Commonwealth Agency pursuant to 815 CMR 6.00. 808 CMR 2.00 also does not apply to certain services delivered under M.G.L. chs. 71B, 19A or 118E. Excluded entities are strongly encouraged to voluntarily comply with the provisions of 808 CMR 2.00.

(2) Purpose. The purpose of 808 CMR 2.00 is to provide all Agencies of the Commonwealth with uniform rules and procedures governing the procurement of Client services from Providers of social, habilitative, rehabilitative, health, mental health, mental retardation, special education, employment and training, and elder services. 808 CMR 2.00 govern all expenditures under Object Codes M01, MM1, M03, MM3, M05, M06, and M08, (as defined in the Office of the Comptroller's Expenditure Classification Handbook) except for Client transportation services. Procurement of Client transportation services is governed by the Procurement and Contracting Manual for Transportation Services, approved by EOAF on May 1, 1988, or successor documents thereto. 808 CMR 2.00 is intended to ensure uniformity, accountability, equity and efficiency in the award and administration of purchase-of-service contracts and cooperative funding agreements.

(3) 808 CMR 2.00 is promulgated under the authority of M.G.L. c. 29, s. 29B, and St. 1992, c. 133, s. 113, and any successor provisions thereto.

2.02: Definitions

As used in 808 CMR 2.00, unless the context clearly requires otherwise, terms shall have the meanings ascribed below.

Agency Head. The head, or a person duly authorized pursuant to 808 CMR 2.03(11), of any Purchasing Agency, including the Secretary when exercising authority as a Purchasing Agency.

Agreement. A purchase-of-service Contract, Cooperative Funding Agreement, or other form(s), as approved by the Division of Purchased Services, and used to document the terms and conditions of a contractual agreement.

As-Needed Services. Those services which a Purchasing Agency purchases on an as-needed basis from a pool of eligible prequalified Providers. The following conditions must be satisfied:

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- (a) all services are paid on a fee-for-service basis;
- (b) the number of service units to be purchased from a specific Provider during the fiscal year cannot be accurately estimated or the Purchasing Agency will require services to be delivered at times which cannot be accurately predicted at the time of procurement and hence a Maximum Obligation for any specific Provider cannot be responsibly determined; and
- (c) total expenditure for the particular service can be controlled by the Purchasing Agency through its control over referral of Clients to the services or over its Clients' utilization of such services.

Bidder. An individual, sole proprietor, corporation, partnership or organization, business trust or association of two or more persons, or other legal entity, that proposes to provide a program or service(s) on behalf of a Purchasing Agency; a prospective Provider.

Client. An individual eligible for and/or receiving services through a program funded in whole or in part under an Agreement. Also referred to as a Consumer.

Collusion. Two or more Bidders or Providers agreeing to act in a manner intended to avoid or frustrate any of the provisions of 808 CMR 2.00.

Consultant. A contractor who renders professional and/or other services to a Purchasing Agency pursuant to 801 CMR 20.00.

Contract. A legally binding and enforceable Agreement to purchase services from a Provider on behalf of Clients specifically identified, referred or deemed eligible for such services by a Purchasing Agency in consideration of compensation to be paid by the Commonwealth, executed in the name of the Commonwealth by a Purchasing Agency.

Contract Start Date. The date the Secretary approves the expenditure of funds by signing the Service Request Authorization or the start date listed on the Agreement, whichever is later.

Cooperative Funding Agreement. A legally binding and enforceable Agreement to support the availability of services to the general public or a segment of the general population in accordance with legislative or executive policy.

Cost Reimbursement. A payment arrangement under which the Purchasing Agency reimburses the Provider for budgeted costs actually incurred in rendering the services specified in the Agreement, up to a stated Maximum Obligation.

Debarment. The process whereby an organization or individual is determined ineligible to bid for or be awarded any public contract or subcontract for the purchase of any social service program or to provide special education services to a Massachusetts student for a specified period of time to be determined by the Division of Purchased Services, pursuant to the provisions of 808 CMR 1.20 and 808 CMR 2.15.

Division of Purchased Services (hereinafter referred to as Division). The Office established in St. 1992, c. 133, s. 113 within the Department of Procurement and General Services, under the Executive Office for Administration and Finance.

Executive Office for Administration and Finance (hereinafter referred to as EOAF). The Office established by M.G.L. c. 7.

Fee-For-Service. A payment arrangement under which the Purchasing Agency pays the Provider for services at a rate per Service Unit.

Master Agreement. The primary Agreement entered into between a Principal Purchasing Agency and a Provider, which sets out the minimum standard requirements, responsibilities, and terms applicable to all purchase-of-service contractual relationships with the Commonwealth. The Master Agreement, which has no date of termination, may be amended from time to time. Any

2.02: continued

Contracts, Cooperative Funding Agreements and/or other documents that are executed pursuant to 808 CMR 2.00 shall be incorporated therein.

Master Service Agreement. A standard contractual Agreement entered into between the Commonwealth of Massachusetts and a qualified Provider, whereby the Provider agrees to provide a specified service(s) at a specified rate(s) to one or more Agencies of the Commonwealth requiring the service(s) during the period the Master Service Agreement is in effect. State-wide Master Service Agreements are established and overseen by the Department of Procurement and General Services (DPGS). Departmental Master Service Agreements are established and overseen by the Purchasing Agency.

Maximum Obligation. The maximum dollar amount of the Purchasing Agency's Agreement to pay for services under a Contract or Cooperative Funding Agreement.

Minority Provider. A private organization which is owned or controlled by members of a minority group. In the case of a for-profit business, minority groups must have a 51% or more ownership interest in the business. In the case of a non-profit organization, 51% or more of the Board of Directors must be members of a minority group. In accordance with Executive Order 237, the term "minority" is defined to include Black, Western Hemisphere Hispanic, Asian, Native American, or Cape Verdean. Minority providers are certified through the State Office of Minority and Women Business Assistance (SOMWBA).

MMARS. The Massachusetts Management Accounting and Reporting System established by the Comptroller of the Commonwealth of Massachusetts pursuant to M.G.L. c. 7A, s. 7.

Office of the Comptroller (hereinafter referred to as the Comptroller). The Office established by M.G.L. c. 7A.

Primary Program Purchaser. The Purchasing Agency which purchases the greatest portion of a particular program and is responsible for procurement on behalf of all known Purchasing Agencies.

Principal Purchasing Agency. The Purchasing Agency which contracts for the largest aggregate amount of state purchase-of-service Contract obligations with the Provider, or as designated by the Executive Office which oversees the Purchasing Agency's operations, and is responsible for the annual prequalification determination for the Provider.

Proposal. A response by a Bidder to a Request for Proposal, which contains a proposed program narrative and budget, and any attachments required by the Request for Proposal.

Purchasing Agency. The Commonwealth of Massachusetts or any secretariat, board, commission, Department, Division, or Agency of the Commonwealth which is authorized to procure client services under the General Laws of the Commonwealth and which procures services subject to 808 CMR 2.00. Also referred to as Agency.

Program. The delivery of one or more discrete services in an organized and coordinated fashion in order to achieve objectives common to all Program participants.

Provider. Any individual, sole proprietor, corporation, partnership, organization, trust, or association agreeing to provide services to Clients of the Purchasing Agency.

Request for Proposals (RFP). A written document issued by a Purchasing Agency which invites Bidders to submit proposals outlining their qualifications and the program being proposed to serve specified clients on behalf of the Agency. The format of the proposal is indicated in the RFP.

2.02: continued

Request for Qualifications (RFQ). A written document issued by a Purchasing Agency which invites Bidders to submit a Statement of Qualifications to provide specified As-Needed Services or to provide individual services to clients on behalf of the Agency.

Secondary Purchase. A purchase by another Agency of a portion of a Program previously procured by a Primary Program Purchaser pursuant to 808 CMR 2.00.

Secretary. The Secretary of the Executive Office, as established by M.G.L. c. 6A or c. 7, or a person duly authorized by the Secretary, pursuant to 808 CMR 2.03(11).

Service Modification (hereinafter referred to as "SM"). An electronically generated MMARS data entry format used by a Purchasing Agency to modify an encumbrance for a Service Contract which has been previously filed with the Office of the Comptroller.

Service Request Authorization (hereinafter referred to as "SR"). An electronically generated MMARS data entry format used by a Purchasing Agency to request expenditure authorization, or a screen-print of the SR in a format as approved by the Comptroller.

Service Unit. A measurable unit of Program activity, productivity or performance as determined by the Purchasing Agency. The Service Unit may be measured in a unit of time, such as an hour of counseling or a residential day; or by the completion of prescribed procedure, such as a client evaluation; or by any other measurable unit of service. The reservation of all or a portion of a Program's operational capacity for the Purchasing Agency's exclusive use, whether or not the capacity is, in fact, utilized, may constitute a Service Unit if the Agreement so provides.

Statement of Qualifications. A response by a Bidder to a Request for Qualifications.

Unit Rate. The rate per Service Unit.

2.03: General Provisions

(1) Application of 808 CMR 2.00. No Purchasing Agency shall incur any obligation or authorize any payment for any services within the scope and purpose of 808 CMR 2.00 except in accordance with 808 CMR 2.00.

(2) Guidelines. The Division may, from time to time, promulgate policies and procedures to interpret, implement, and provide guidance on 808 CMR 2.00. Any Secretary, subject to the prior approval of the Division, may also issue guidelines that are consistent with 808 CMR 2.00 and any policies and procedures published by the Division, to implement the provisions set forth herein.

(3) Waivers. Upon request of an Agency, the Division may waive the applicability of one or more provisions of 808 CMR 2.00, provided that all such requests and approvals:

- (a) are in writing, signed by the Agency Head;
- (b) specify the transactions to which such waiver would apply and the provisions of 808 CMR 2.00 to be waived;
- (c) include a certification that the Agency has made a good faith effort to comply with said provisions; and
- (d) are accompanied by supporting documentation deemed sufficient by the Division to support the special circumstances or the need for relief.

The original waiver shall be kept on file by the Division. A copy of the waiver shall be kept on file by the Agency along with the Agreement or other relevant documents. A copy of the Waiver shall also be filed with the Comptroller. Waivers do not affect the responsibility of a Purchasing Agency to comply with other applicable regulations or statutes.

2.03: continued

- (4) Minority Providers. Purchasing Agencies shall take affirmative measures to identify, develop and procure services from Minority Providers as required by 801 CMR 11.00 and Executive Order 237.
- (5) Conflict of Interest. The conduct of all parties to a procurement is governed by the Massachusetts Conflict of Interest law, M.G.L. c. 268A.
- (6) Fiscal Conduits Prohibited. No Purchasing Agency shall award an Agreement:
- (a) to acquire any goods for the Purchasing Agency's use;
 - (b) to defray the expenses of services rendered by individuals hired or supervised in the daily performance of their work by personnel in the classified service of the Commonwealth; or
 - (c) solely to acquire payroll or fiscal management for a Program of Client services operated by the Commonwealth or any third party.
- (7) Use of Funds for Lobbying Prohibited. No Provider shall use funds, received pursuant to any Agreement, to lobby staff or members of the General Court for additional appropriations to the Purchasing Agency which awarded said Agreement.
- (8) Solicitation of Interest and Information. In contemplation of procurement, the Purchasing Agency may prepare a written Solicitation of Interest and Information for publication in the "Goods and Services Bulletin" or other appropriate means of dissemination to interested parties. The solicitation shall describe, in sufficient detail to enable interested parties to respond appropriately, the Clients or type of Clients contemplated and such other information as is consistent with the purposes of the solicitation. In general, the purposes of such solicitation are to determine the extent of potential competition for a contemplated procurement or to solicit the advice of interested parties concerning appropriate procurement specifications. Such a solicitation shall not obligate the Purchasing Agency to issue a Request for Proposals or a Request for Qualifications, pursuant to 808 CMR 2.04 or 2.05, nor shall the failure of any party to respond to the solicitation limit its ability to respond to a subsequent RFP or RFQ.
- (9) Debarred Parties. No Purchasing Agency shall award an Agreement to any Provider, or approve a subcontract or assignment to any party, which is currently subject to any state or federal debarment order or determination.
- (10) Records Retention. Each Agency shall maintain all records associated with the procurement, including the RFP, the Proposals, and evaluations, and all Agreement documents including justification statements and waivers for a period to be determined by the Records Conservation Board pursuant to M.G.L. c. 30, s. 42.
- (11) Signatory Authorization. Any Secretary of an Executive Office or any Agency Head may delegate his/her signatory approval to an authorized representative by annually filing with the Comptroller, on a form to be determined by the Comptroller, a written delegation with appropriate original signatures.
- (12) Federal Funding Obligations. The Commonwealth through the Purchasing Agencies and the Division of Purchased Services, shall make its best efforts to notify Providers of the amount of any federal funds furnished by the Commonwealth. Providers are responsible for satisfying any applicable federal financial and program reporting requirements.

2.04: Competitive Procurement

Except as provided in 808 CMR 2.05 and 2.06, all procurement subject to 808 CMR 2.00 shall be conducted in accordance with the competitive procedures set forth in 808 CMR 2.04(1)-(12) and in any policies and procedures published by the Division to implement these provisions. The provisions of 808 CMR 2.04 specify the minimum requirements for competitive procurement and

2.04: continued

are not intended to preclude additional complementary or compatible competitive procedures.

(1) Request for Proposals. The Purchasing Agency shall prepare a written Request for Proposals (RFP). To enable Bidders to prepare a responsive Proposal, the RFP shall provide, at a minimum, the following information: a detailed description of the Clients or type of Clients to be served, the performance objectives for such Clients or for the program as a whole, minimum or mandatory administrative and Program specifications, the selection process and all evaluation criteria to be used by the Purchasing Agency, and the period of time that Agreements will be in effect, subject to the limitations of 808 CMR 2.11. The RFP also shall cite the applicable schedule of prices, price methodology, or other price information, including the Agency designated by law to set Prices for the service(s) being procured. In the case of a Cooperative funding Agreement, the RFP shall further specify the Purchasing Agency's requirements, if any, regarding the amount of the Provider's financial support of the Program.

(2) Solicitation of Interested Parties. The Purchasing Agency shall publish notice of its intent to issue an RFP in the "Goods and Services Bulletin" at least five calendar days before release of the RFP, and may otherwise disseminate notices of availability of the RFP in a manner designed to obtain the widest possible competition. The Purchasing Agency shall provide a copy of the RFP to any interested party, upon request.

(3) Proposals. Bidders' proposals shall be in writing, conforming to the specifications of the RFP. No Bidder may engage in Collusion with any other party for the purpose of inhibiting full, free and fair competition. The prohibition of Collusion shall not prevent collaboration among Bidders in the preparation of joint proposals. A bidder's willingness to voluntarily defray, with its unrestricted funds, a specified portion of the costs of the services to be procured should be clearly stated in its proposal. A bidder's use of unrestricted funds cannot be required by the Purchasing Agency.

(4) Proposal Submission and Receipt. The Purchasing Agency shall allow at least 20 calendar days from the date of release of the RFP for the preparation and submission of proposals and shall record the date and time of receipt of all proposals. Proposals received after the deadline specified in the RFP shall be disqualified.

(5) Qualified Proposals. The Purchasing Agency shall review all timely submissions. Timely proposals which meet all minimum requirements and mandatory conditions specified in the RFP shall be deemed "qualified".

(6) Prequalified Bidders. The Purchasing Agency shall determine whether a Bidder possesses the financial and administrative capacity to fulfill its contractual obligations to the Commonwealth, in accordance with the procedures established by the Secretary pursuant to 808 CMR 2.14(4). Bidders who satisfy minimum standards of financial and administrative capacity shall be deemed "prequalified". Only prequalified Bidders are eligible to receive an award.

(7) Competitive Negotiation. Prior to completion of the proposal evaluation process, the Purchasing Agency, at its discretion, may engage in competitive negotiations with all Bidders who submitted qualified proposals. In this case, each such Bidder shall be notified of the intention to negotiate and shall be afforded an equal opportunity to engage in negotiations. Each Bidder shall be advised in writing of the time specified for the closing of negotiations and all Bidders shall be allowed a reasonable time, following the close of negotiations, in which to submit a revised proposal. In the course of competitive negotiations, the Purchasing Agency may modify its original specifications by furnishing written revisions to each Bidder. However, the Purchasing Agency may not modify its specifications if there is reason to believe prospective Bidders who did not respond to the original RFP would have responded had the RFP included the revised specifications. If Secondary Purchase is anticipated

2.04: continued

in the RFP, the Purchasing Agency shall coordinate all activity pursuant to 808 CMR 2.04(7) with all Secondary Purchasers in a unified manner.

(8) Proposal Evaluation. The Purchasing Agency shall establish a proposal review committee to evaluate all qualified proposals in accordance with the evaluation criteria and process specified in the RFP. Evaluation criteria must be structured to promote and encourage the procurement of services from Minority Providers. If the evaluation is based on a point scoring system, certified Minority Business Enterprises shall be awarded, at a minimum, an additional 5% of the total available points to their total scores. Bidders must submit a copy of their most recent MBE certification with their proposal submission to qualify for the additional 5%. A Purchasing Agency may, at its discretion and as specified in the RFP, request that Bidders participate in oral presentations as part of the evaluation process. Consultants may serve as advisors to Purchasing Agencies in the evaluation of Bidders' proposals but may not represent or act on behalf of a Purchasing Agency in any selection or award.

(9) Awards. Upon completion of the evaluation process, the Purchasing Agency shall make an award to the prequalified Bidder(s) which submit(s) a qualified Proposal which is determined by the Purchasing Agency to be responsive to the RFP and most advantageous to the Commonwealth. The Purchasing Agency shall notify each Bidder in writing of the Agency's decision regarding the Bidder's proposal. In the event that the Purchasing Agency, negotiating in good faith, fails within a reasonable time to reach Agreement with the first prioritized Bidder(s), as described in 808 CMR 2.07(3), the Purchasing Agency may disqualify the first Bidder(s) and award the Agreement(s) to the next prioritized Bidder(s).

(10) Rejection of All Proposals. Upon written notice to all Bidders stating the reason(s) therefor, the Purchasing Agency, at any time, may cancel the procurement or reject all proposals and recommence procurement procedures, when it determines that such action is in the best interest of the Commonwealth.

(11) Debriefing. Upon notification of Purchasing Agency decisions, as described in 808 CMR 2.04(9), any Bidder shall be given an opportunity for a debriefing in which to discuss, with the Purchasing Agency Head or designee, the basis for the award decisions. Requests for a debriefing must be received by the Purchasing Agency within 14 calendar days of postmark of the notification to the Bidder. At the debriefing, the Bidder may discuss with the Purchasing Agency the basis for the award decisions and may examine Proposals, the list of awards, and the evaluation materials and ratings from the review committee(s). A debriefing meeting is a prerequisite to an appeal under 808 CMR 2.04(12).

(12) Administrative Appeal. Any prequalified Bidder aggrieved by an award decision of the Purchasing Agency, and after having a debriefing, may appeal the decision to the Agency Head or designee within 14 calendar days of the debriefing meeting. Any prequalified Bidder aggrieved by a decision of the Agency Head made on appeal, which concerns interpretation or application of any policy or procedure published by the Division of Purchased Services may appeal the decision further to the Assistant Commissioner of the Division or designee within 14 calendar days of postmark of notice of the Agency Head's decision on the original appeal. All appeals shall be in writing and shall specify in sufficient detail the basis for the appeal. All decisions of the Agency Head or Assistant Commissioner shall be rendered in writing, setting forth the grounds for the decision within 90 calendar days of notice of the appeal. Pendency of an administrative appeal shall not preclude the Purchasing Agency from proceeding with the procurement or the execution of an Agreement. Appeals pursuant to 808 CMR 2.04(12) are not subject to the provisions of M.G.L. c. 30A, ss. 10 and 11.

2.05: Request for Qualifications (RFQ) Procurement(1) Conditions for Request for Qualifications Procurement.

(a) A Purchasing Agency may award multiple Agreements through the RFQ procurement process for As Needed Services that satisfy the criteria contained in 808 CMR 2.02.

(b) A Purchasing Agency may award a Contract for an individual to provide client services (Object Code M01 or MM1) through the RFQ procurement process by following the procedures specified in 808 CMR 2.05(2)(a) - (d) and such additional procedures as necessary to select the most qualified individual provider.

(2) Request for Qualifications (RFQ) Procurement Procedures. All RFQ procurements shall be conducted in accordance with the procedures set forth in 808 CMR 2.05(2)(a)-(g).

(a) Request for Qualifications. The Purchasing Agency shall prepare a written Request for Qualifications (RFQ). The RFQ shall describe in sufficient detail to enable Bidders to prepare a Responsive Statement of Qualifications, the Clients or type of Clients to be served, the type(s) of services to be provided, the performance objectives for the Clients or the Program as a whole, minimum or mandatory Program and cost specifications, if any, the selection criteria to be used by the Purchasing Agency in evaluating Statements of Qualifications, and the period of time during which the RFQ is to be in effect, subject to the limitations of 808 CMR 2.11. The RFQ also shall cite the applicable rate regulation.

(b) Solicitation of Interested Parties. The Purchasing Agency shall publish notice of the availability of the RFQ in the "Goods and Services Bulletin" and may otherwise disseminate notice of the availability of the RFQ in a manner designed to obtain the widest possible response and, upon request, shall provide a copy of the RFQ to any interested party.

(c) Statement of Qualifications. A Bidder's Statement of Qualifications shall be in writing, conforming to the specifications of the RFQ. A Bidder's willingness to voluntarily defray, with its unrestricted funds, a specified portion of the costs of the services to be procured should be clearly stated in its submission. No Bidder may engage in Collusion with any other party for the purpose of inhibiting full, free and fair competition. The prohibition of Collusion shall not prevent collaboration among Bidders in the preparation of joint proposals.

(d) Submission. A Statement of Qualifications may be submitted at any time during the period in which the RFQ is in effect.

(e) Eligibility. The Purchasing Agency shall determine whether a Bidder possesses the financial and administrative capacity to fulfill its contractual obligations to the Commonwealth, in accordance with the procedures established by the Secretary pursuant to 808 CMR 2.14(4). Bidders who satisfy minimum standards of financial and administrative capacity shall be deemed "prequalified". Prequalified bidders who submit a Statement of Qualifications that meets all minimum requirements and mandatory conditions specified in the RFQ shall be deemed "eligible".

(f) Award. All eligible Bidders shall be awarded Agreements in accordance with the requirements of 808 CMR 2.07 except that 808 CMR 2.07(3) shall not apply.

(g) Additional Procedures. The procedures set forth in 808 CMR 2.04(10), (11) and (12) shall also apply to procurements under 808 CMR 2.05(2).

2.06: Non-Competitive Procurement

(1) Conditions for Non-Competitive Procurement. Purchase-of-service Contracts and Cooperative Funding Agreements may be awarded without compliance with the competitive procurement procedures set forth in 808 CMR 2.04, if a condition contained in 808 CMR 2.06(1)(a),(b),(c),(d), or (e) is satisfied.

(a) The service is needed on an emergency or temporary basis to respond to an immediate threat to life, health, welfare, or safety of persons or the protection of property.

(b) A diligent investigation has revealed that there is only one Provider qualified to perform the service by virtue of unique Provider status or capabilities.

(c) A change in an existing Program's administration, staffing or facility

2.06: continued

would significantly impair the achievement of Clients' service objectives or be otherwise detrimental to the Clients' welfare and the Program was originally subject to competitive procurement procedures.

(d) A Secondary Purchaser wishes to purchase a portion of a Program procured by a Primary Program Purchaser pursuant to 808 CMR 2.04.

(e) The Program is procured under Object Code M06, as a formula procurement, because the appropriation is earmarked for a specifically identified Provider or type of Provider, and the amount of or formula for funding is specified.

(2) Non-Competitive Procurement Justification: Approval. In all cases of non-competitive procurement, the Purchasing Agency, prior to encumbering funds, or modifying an encumbrance for that purpose under 808 CMR 2.12, shall develop and keep on file a written justification setting forth in detail the specific grounds for applying 808 CMR 2.06(1). In the case of an emergency or temporary procurement pursuant to 808 CMR 2.06(1)(a), the justification shall, to the extent feasible, indicate the expected duration of the emergency or temporary need, and the non-competitive approval shall be limited to that time period. In the case of non-competitive procurement pursuant to 808 CMR 2.06(1)(c), the justification shall be accompanied by a copy of the Purchasing Agency's written, satisfactory evaluation of each Provider's performance. Justification may be prepared for an individual procurement or a class of procurements having a common ground for exemption from competitive procurement. A copy of the approved justification shall be filed, together with the Agreement or amendment to which it pertains, in accordance with 808 CMR 2.07(6), and the Purchasing Agency shall maintain a separate file of all approved justifications for public viewing. Each Purchasing Agency shall forward to the Division of Purchased Services for review on July 1, October 1, January 1, and April 1 a list of non-competitive procurements approved by the Purchasing Agency for the prior quarter.

(3) Emergency Procurement. A Purchasing Agency may reimburse a Provider for unanticipated emergency services delivered to one or more clients, for a period not to exceed 21 days or for services valued up to \$5,000, whichever is less, under Object Code M08, as defined in the Office of the Comptroller's Expenditure Classification Handbook. Emergency procurement is limited to expenditures for direct client services and other expenses specifically required in the delivery of those direct services. If the need for emergency services is anticipated to continue beyond these limits, then the Purchasing Agency shall initiate one of the procurement procedures specified in 808 CMR 2.06, 2.04 or 2.05 prior to the expiration of the emergency procurements limits. However, one limited extension of the emergency procurement limits may be granted by the Division of Purchased Services, if a Purchasing Agency submits a waiver in accordance with 808 CMR 2.03(3).

2.07: Written Agreements

(1) Written Agreement Required. No obligation for services, other than those expenditures under 808 CMR 2.06(3), shall be incurred by a Purchasing Agency except pursuant to a written Agreement in a form approved as prescribed in 808 CMR 2.07(2) and on file for public viewing at the Purchasing Agency. For emergency procurements under 808 CMR 2.06(3), the Purchasing Agency shall maintain such records as may be appropriate to document emergency expenditures, such as bills for services.

(2) Agreement Form Approval. The Division of Purchased Services shall issue standard contractual forms to be used in the award, amendment or renewal of Agreements executed pursuant to 808 CMR 2.00. Except as otherwise provided in 808 CMR 2.00, the form of any written Agreement (including any contractual terms or conditions of general applicability) shall, at a minimum, incorporate the terms specified in 808 CMR 2.07(4) and shall first be approved by the Division.

(3) Negotiation. The Purchasing Agency and the Provider(s) to which the Contract or Cooperative Funding Agreement has been awarded pursuant to 808

2.07: continued

CMR 2.04 or 2.06 may engage in negotiations leading to a written Agreement. In the case of competitive procurement pursuant to 808 CMR 2.04, negotiations shall be limited to terms and conditions not specifically addressed in the RFP and the Provider's written proposal and/or matters which do not significantly alter the terms of the written proposal. In the case of a Purchasing Agency other than the Primary Program Purchaser, negotiations shall be limited to additional terms and conditions which do not materially modify the statement of work, fiscal terms or other terms and conditions agreed between the Provider and the Primary Program Purchaser. In either case, the amount of the Provider's contribution, as stated in its Proposal, pursuant to 808 CMR 2.04(3), of unrestricted funds to defray the cost of services shall not be negotiable.

(4) Terms of Agreement. The written Agreement of the parties shall incorporate the terms set forth in 808 CMR 2.07(4)(a)-(d), and such additional terms and conditions as may be necessary to express the full and complete Agreement of the parties.

(a) Statement of Work and Objectives. The Agreement shall include a full and detailed description of the scope and nature of the Program of services to be rendered by the Provider including any minimum or mandatory Program requirements. The Agreement also shall include specific and measurable criteria and standards that can be quantified and related to the cost data for computation of unit cost and for evaluating the Provider's productivity and performance in relation to desired individual Client outcomes or overall Program objectives.

(b) Fiscal Terms. In the case of Fee-For-Service, the Agreement shall cite the applicable Division of Purchased Services or Rate Setting Commission regulation, specify the Unit Rate and its effective date, and define the Service Unit and any limitations on billable units. Except in the case of Agreements for As-Needed Services or Master Service Agreements, the Maximum Obligation shall also be stated. A Fee-For-Service Agreement may provide that services are to be paid at rates to be determined from time to time by the Division of Purchased Services or Rate Setting Commission. In such cases, the then current rate shall be specified in the Agreement. In the case of Cost Reimbursement, the Agreement shall state the Maximum Obligation and shall incorporate a detailed budget. In the case of a Cooperative Funding Agreement, the Agreement shall state the agreed amount of the Provider's financial support of the Program, if any. In all cases, the Agreement shall specify the method and scheduling of payments.

(c) Required Reports and Applicable References. The Agreement shall describe the content, timing, and where applicable, the format of all reports required of the Provider during the term of the Agreement and specifically cite all applicable statutes, regulations, policies, and procedures.

(d) Duration and Terms of General Applicability. The Agreement shall, at a minimum, specify its starting and ending dates and provide for termination for cause, at any time, upon reasonable notice. In addition, the Agreement may provide for termination without cause, upon proper notice, and for automatic renewal on an annual basis, subject to the limitations set forth in 808 CMR 2.10 and 2.11.

(5) Signatory Authority. The Agreement must be signed and dated where indicated on the Agreement form by persons authorized to bind the parties in contract. The official having statutory authority to act for the Purchasing Agency may delegate this authority to a subordinate, pursuant to 808 CMR 2.03(11). Documentation of the authority of the person signing on behalf of the Provider, such as the Board of Director's Certificate of Vote or a copy of pertinent provisions of the corporate charter, bylaws, trust, or partnership Agreement must be attached to the Agreement or Master Agreement.

(6) Filing. Promptly upon execution, the Purchasing Agency shall file with the Comptroller a complete copy of the Agreement (subsequent amendment or renewal form), together with any attachments and supporting documentation required by these regulations, and any applicable subcontracts in compliance with the applicable filing requirements of the Office of the Comptroller.

2.08: Subcontracts

The prior written approval of the Purchasing Agency shall be required for any subcontracted services which represent a significant portion of the total cost of the Agreement or which represent a significant delegation of financial or programmatic responsibility. The Purchasing Agency shall ensure that, to the fullest extent practical, Providers procure subcontracted services on a competitive basis, take affirmative measures to procure services from subcontractors who are minority business enterprises and/or are owned and operated by persons with disabilities and engage subcontracted services upon contract terms and conditions identical to those applicable to the Provider. Execution of the Agreement shall satisfy the requirement of prior written approval if the subcontractor and its services are identified therein. Notwithstanding such prior approval, the Provider is accountable for the satisfactory performance of its subcontractors and for adequate oversight of its subcontractors to meet state and federal financial and program reporting requirements. Any subcontract for which prior written approval is required but has not been obtained shall be considered void for purposes of reimbursement.

2.09: Amendment

(1) Mutual Agreement. Any Agreement subject to these regulations may be amended by mutual Agreement of the parties provided that the conditions of 808 CMR 2.09(2) and (3) and 808 CMR 2.12 are satisfied and provided that the Agreement, as amended, does not constitute so substantial a change from the specifications of the original procurement and award as to warrant a new procurement.

(2) Written Amendment. All amendments which materially affect the Agreement of the parties must be:

- (a) in writing which conforms to the requirements of 808 CMR 2.07(2) and (6);
- (b) signed by persons having authority to act for the Purchasing Agency and the Provider as described in 808 CMR 2.07(5);
- (c) reference the original Agreement;
- (d) specify the terms of the original Agreement to be amended; and,
- (e) specify the effective date of the amendment.

(3) Limitation on Increases to Maximum Obligation. An Agreement may be amended to increase the Maximum Obligation up to 125% of the current fiscal year annualized Maximum Obligation, if the Maximum Obligation, as amended, does not exceed 150% of the annualized Maximum Obligation stated in the original Agreement. An Agreement may be amended to increase the Maximum Obligation more than 125% of the current fiscal year annualized Maximum Obligation if either:

- (a) the amount of the increase is for additional services which were competitively procured under 808 CMR 2.04, in which case the increase in the Maximum Obligation is not limited; or,
- (b) the amount of the increase is for additional services which were non-competitively procured under 808 CMR 2.06 and the original Agreement was procured under 808 CMR 2.06, in which case the Maximum Obligation, as amended, may not exceed 150% of the annualized Maximum Obligation stated in the original Agreement.

2.10: Renewal

(1) Annual Renewal. A Contract or Cooperative Funding Agreement shall automatically be renewed on an annual basis for the period stated in the original Agreement, as specified in 808 CMR 2.07(4)(d), provided that the following conditions are satisfied:

- (a) the original award was subject to procurement, at least as often as prescribed in 808 CMR 2.11;
- (b) the conditions of 808 CMR 2.12 are satisfied;
- (c) the Provider's performance is satisfactory pursuant to 808 CMR 2.14(3);
- (d) the provider has been prequalified pursuant to 808 CMR 2.14(4);
- (e) the terms of the Agreement specify that all undertakings of the Commonwealth are subject to availability of funds; and

2.10: continued

(f) the maximum obligation of the renewal satisfies the requirements of 808 CMR 2.09(3).

(2) Terms of Renewal. An Agreement may be renewed either by its terms or with amendment to its terms.

(3) Written Renewal. The Purchasing Agency shall file a renewal form with the Comptroller in a format approved by the Division of Purchased Services which states the fiscal terms (808 CMR 2.07(3)(b)) to be in effect during the renewal period. In the case of a renewal with amendment, the renewal form shall also specify the terms of the original Agreement to be amended.

2.11: Procurement Cycles

(1) Procurement Cycle Limits. All procurements shall be subject to competitive procedures pursuant to 808 CMR 2.04, Request for Qualifications procedures pursuant to 808 CMR 2.05, or justification of non-competitive procedures pursuant to 808 CMR 2.06 at least as often as follows:

- (a) in the case of Agreements exempted from competitive procurement on an emergency or temporary basis pursuant to 808 CMR 2.06(1)(a), according to the timetable set forth in the justification but at least annually;
- (b) in the case of all other procurements, at least once every five years.

(2) Procurement Cycle Plans. The Purchasing Agency shall prepare a procurement cycle plan for its competitively procured programs purchased under object codes M03, MM3, and M05 and its As-Needed Services. The plan shall set forth a schedule of procurement for each such program type or service. For As-Needed Services, the plan shall also set forth in detail how the services meet the criteria in 808 CMR 2.02 and how the Agency shall ensure the equitable utilization of all qualified Providers. The plan may take into account the geographic distribution of eligible Providers, the chronological order in which Providers qualified, the relative cost of each qualified Provider's Program, the Purchasing Agency's written evaluations of the services provided by eligible Providers, or such other considerations as may be appropriate to the procurement. The plan shall be submitted to the Division of Purchased Services upon formulation and upon amendment.

(3) Off-Cycle Procurement. A Purchasing Agency may only award an Agreement for a period less than the procurement plan anticipates, by specifying in the original award the reasons therefor. A Purchasing Agency may award an Agreement pursuant to competitive procurement procedures specified in 808 CMR 2.04 for a period exceeding the limitations in 808 CMR 2.11(1) if the request meets the standards established by the Division for off-cycle procurement. The Purchasing Agency must submit written notification of any off-cycle procurement to the Division.

2.12: Fiscal Control

(1) Authorization and Encumbrance. No contractual obligation shall be incurred until the expenditure of funds has been authorized by the Secretary as required by M.G.L. c. 29, s. 29B and adequate funds have been encumbered by the Comptroller for that purpose in accordance with the policies and procedures set forth in 808 CMR 2.12(2)-(3).

(2) Availability of Funds. No Agency shall incur any contractual obligation unless there are sufficient funds available to satisfy the Agreement's stated Maximum Obligation, and the anticipated current year and annualized cost of all such procurements does not exceed the maximum amount, if any, specified in legislative language governing the applicable appropriation account. For these purposes, sufficient funds will be deemed available, if:

- (a) in the case of an Agreement to be funded with federal monies, a federal agency has made a binding commitment to the Commonwealth, as evidenced by the release of funds, a letter of credit, or a letter of intent in an amount sufficient to meet the Agreement's Maximum Obligation, and the Agreement satisfies all conditions of the federal award; or

2.12: continued

(b) in the case of an Agreement negotiated prior to the start of a fiscal year in anticipation of appropriation, the Maximum Obligations of all such Agreements are subject to the availability of funds as prescribed by the Secretary of EOAF.

(3) Authorization and Encumbrance Procedures.(a) Service Request (SR).

1. For each Agreement or group of Agreements the Purchasing Agency shall enter an SR in MMARS in accordance with the instructions published by the Comptroller.
2. The Secretary may indicate his approval of the Agreement by signing the SR, or may delegate his/her approval in accordance with 808 CMR 2.03(11); provided that the authorized signatory shall approve Service Requests only in conformance with the Secretary's instructions as provided herein.
3. No payments shall be made prior to the date the SR and applicable Agreement documents are filed with the Comptroller's Office.
4. For each encumbrance, MMARS automatically confirms the availability of funds sufficient to meet the Maximum Obligation specified in the SR.
5. Upon filing a completed Agreement as described in 808 CMR 2.07(6), the Comptroller shall encumber funds by appropriate entry to MMARS.

(b) Service Modification (SM). Whenever the termination or amendment of an Agreement or approval of rate results in a change to any information required by the Comptroller to be entered in MMARS as a part of the Service Request, the Purchasing Agency shall enter in MMARS a Service Modification, in accordance with the procedures set forth in 808 CMR 2.12(3)(a).

2.13: Payment

(1) Rates. Payment shall be made in accordance with the rates and effective dates certified by the State Agency designated by law to set rates. The Division of Purchased Services shall be responsible for the pricing of all social service programs, excluding any program or service which is reimbursable under Title XIX of the Social Security Act. The Rate Setting Commission, subject to the approval of the Department of Public Welfare, sets rates for Title XIX reimbursable services.

(2) Payment Procedures. Procedures for invoicing and payment shall be governed by the terms of the Agreement consistent with rules and regulations promulgated by the Comptroller, the Secretary, and the Division of Purchased Services.

(3) Payment Limitations.

- (a) No obligation for payment shall be incurred on account of services rendered prior to the Contract Start Date.
- (b) No payment shall be authorized by the Comptroller prior to the Contract Start Date with the exception that payment may be made for services rendered no earlier than 15 days prior to said date, upon approval by the Assistant Commissioner of the Division, as delegated by EOAF, of a written request for start date retroactivity submitted by the Purchasing Agency and approved by the Secretary in charge of said Agency.
- (c) No payment shall be authorized by the Comptroller until:
 1. the Agreement and related documents have been filed with the Comptroller as required by 808 CMR 2.07(6);
 2. an encumbrance of funds for that purpose has occurred in accordance with 808 CMR 2.12; and
 3. the Division of Purchased Services or Rate Setting Commission, as provided in 808 CMR 2.13(1), has certified a rate to the Comptroller and the certified rate agrees with the payment terms of the Agreement and encumbrance.

2.14: Contract Administration

(1) Contract Performance Manager Responsibilities. The Purchasing Agency shall appoint a Contract Performance Manager for each Agreement. The Contract Performance Manager shall be Responsible for monitoring the Provider's compliance with all terms of the Agreement and for assuring satisfactory performance of all undertakings assumed by the Purchasing Agency in the Agreement.

(2) Notice to Providers. The Purchasing Agency shall notify the Provider promptly of the date upon which services may be rendered pursuant to 808 CMR 2.12(3)(a) and shall promptly furnish the Provider with a copy of the fully executed Agreement, any subsequent amendments, and any renewals.

(3) Annual Review. The Purchasing Agency shall at least annually conduct a review of the Provider's performance under the Agreement.

(4) Prequalification of Providers. Each Secretary in consultation with the Division shall develop procedures to annually review the Provider's financial viability, including compliance with Commonwealth corporate and tax requirements. Purchasing Agencies cannot enter into Agreements with Providers who have not been prequalified to conduct social services contracting.

2.15: Debarment

(1) Scope and Application of Debarment. The provisions of 808 CMR 2.15 shall be used when determining whether grounds for debarment or suspension exist and for debarring or suspending a Provider, employee or related party (as defined in 808 CMR 1.02) of a Provider where the grounds for debarment arose prior to the effective date of St. 1991, c. 550 or in those circumstances which do not fall within the regulations of the Executive Office of Administration and Finance developed to implement the provisions of St. 1991, c. 550.

(a) The Assistant Commissioner of the Division of Purchased Services or designee may, where sufficient grounds have been found, determine that a particular Provider and/or an employee or related party of a Provider is ineligible for award of any contract for the furnishing of a social service program for a specified period of time commensurate with the seriousness of the cause(s).

(b) A debarment may include all known affiliates of a Provider. The decision to include a known affiliate within the scope of a debarment shall be made on a case-by-case basis, after giving due regard to all relevant facts and circumstances. An affiliate, entity or individual may not be debarred unless it is afforded prior notice and opportunity for a hearing in accordance with the provision of 808 CMR 2.15(3)(b).

(c) During a period of debarment, offers, bids, proposals or quotes shall not be solicited or considered from debarred organizations or individuals, and Providers shall not sub-contract for services with debarred organizations or individuals on any public contract, including for management services and supplies.

(d) Debarment is a tool to protect the public interest. As such it is not a substitute for remedies provided by contract or for the review of Provider financial viability and compliance with regulatory and statutory provisions provided by prequalification. It is a complementary tool for use in appropriate circumstances.

(e) In appropriate circumstances, the Assistant Commissioner or designee may limit the participation of a Provider in particular programs, for example, a Provider might be prohibited from participating in the program or programs under which the cause for debarment arose, instead of imposing debarment.

(2) Grounds for Debarment. Debarment may be imposed upon an organization or individual upon a finding by the Assistant Commissioner or designee that the following conditions relative to the organization or individual exist:

(a) Conviction or final adjudication by a court or administrative agency of competent jurisdiction of any of the following offenses:

2.15: continued

1. a criminal offense incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
2. a criminal offense involving embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty which seriously and directly affects the organization's or individual's present responsibility as a public contractor;
3. a criminal offense involving neglect or abuse of a client(s) or of a person(s);
4. a violation of state or federal antitrust laws arising out of the submission of bids or proposals;
5. a violation of state or federal laws regulating campaign contributions;
6. a violation of M.G.L. c. 268A;
7. repeated or aggravated violation of any state or federal law regulating hours of labor, prevailing wages, overtime pay, equal pay or child labor;
8. repeated or aggravated violation of any state or federal law prohibiting discrimination;
9. repeated or aggravated violation of any state or federal law regulating labor relations or occupational health or safety;
10. failure to comply with federal or state laws or regulations concerning the payment of any tax or the filing of any required document with the appropriate tax agency; or

(b) Substantial evidence as determined by the Assistant Commissioner or designee of any of the following acts:

1. willful supplying of materially false information incident to obtaining or attempting to obtain or performing any public contract or subcontract;
2. willful failure to comply with record keeping and accounting requirements prescribed by law, regulation or contract;
3. failure to perform or unsatisfactory performance in accordance with the terms of one or more contracts, provided that such failure to perform or unsatisfactory performance has occurred, or has come to the attention of Commonwealth agencies, within a reasonable period of time preceding the determination to debar, and provided further that such failure to perform or unsatisfactory performance was not caused by factors beyond the organization's or individual's control;
4. a pattern of seriously deficient programmatic and/or administrative performance; or

(c) The organization or individual is subject to a debarment order or determination by another state or the federal government.

(d) In determining whether to debar and/or the period of debarment, all mitigating facts and circumstances shall be taken into consideration. Except as precluded by statute, a debarment may be removed or the period thereof may be reduced by the Assistant Commissioner or designee upon the submission of an application supported by documentary evidence setting forth appropriate grounds for the granting of relief, such as newly discovered material evidence, reversal of a judgment or conviction, bona fide change of ownership or management, or the elimination of the cause for which the debarment was imposed.

(3) Process for Debarment.

(a) No organization or individual may be debarred unless the Assistant Commissioner or designee has first informed the organization or individual by written notice of the proposed debarment, mailed by registered or certified mail to the Provider's last known address, except where the Assistant Commissioner or designee determines that immediate suspension is necessary to protect the public interest, in which case the suspension shall take effect immediately and notice shall be mailed to the Provider at the earliest opportunity.

(b) The notice shall inform the organization or individual of the reasons for the debarment and shall state that the organization or individual will be afforded an opportunity for a hearing if the organization or individual so requests in writing to the Assistant Commissioner or designee within 14 days of postmark, or receipt in hand, whichever is earlier, of notice.

2.15: continued

- (c) A hearing requested under 808 CMR 2.15(3(b)) shall be conducted within 30 days of receipt of the request, unless the Assistant Commissioner or designee grants additional time therefor.
- (d) The hearing shall be conducted according to the rules for the conduct of adjudicatory hearings established by the Secretary of EOAF pursuant to M.G.L. c. 30A.
- (e) The Assistant Commissioner or designee shall issue a written decision which makes specific findings that there is substantial evidence to support the debarment and the length thereof, in order to protect the integrity of the public contracting or service delivery process.
- (f) The organization or individual shall be notified forthwith of the decision by registered or certified mail, and of the right to judicial review.

2.16: Severability

The provisions of 808 CMR 2.00 are severable, and, if any provision of 808 CMR 2.00 or its application shall be held to be invalid or unconstitutional, such invalidity shall not be construed to affect the validity or constitutionality of any remaining provisions of 808 CMR 2.00 or application of such provisions to providers or fiscal intermediaries under circumstances other than those held invalid.

REGULATORY AUTHORITY

808 CMR 2.00: M.G.L. c. 29, s. 29B; St. 1992, c. 133, s. 113.

808 CMR 3.00: Component Price Catalog

Section

3.01: Scope, Purpose, and Authority

3.02: General Provisions

Appendix A: Component Price Catalog Fiscal Year 1994

3.01: Scope, Purpose, and Authority

(1) Scope. 808 CMR 3.00 applies to any Executive Office, Department, Agency, Board, Commission, or Institution of the Executive Department when competitively procuring a social service program under 808 CMR 2.00 using a component pricing methodology. 808 CMR 3.00 does not apply to the Legislative and Judicial Branches, the Constitutional Offices, the Public Institutions of Higher Education or independent public authorities.

(2) Purpose. The purpose of 808 CMR 3.00 is to promulgate the "Component Price Catalog Fiscal Year 1994," dated April 1993 and attached hereto as Appendix A.

(3) Authority. 808 CMR 3.00 is promulgated pursuant to the authority contained in St. 1992, c. 133, § 113, or any successor provision thereto.

3.02: General Provisions

(1) The "Component Price Catalog Fiscal Year 1994" which is attached hereto as Appendix A is hereby incorporated by reference into and made a part of 808 CMR 3.00.

(2) The "Component Price Catalog Fiscal Year 1994," hereinafter referred to also as 808 CMR 3.00-Appendix A, is to be used when a purchasing agency, as defined in 808 CMR 2.00, procures a social service program under 808 CMR 2.00 using a component pricing methodology.

(3) The purchasing agency shall state in any request for proposals issued pursuant to the provisions of 808 CMR 2.00 if and to what extent 808 CMR 3.00-Appendix A is to be used by a bidder in submitting proposals and by the purchasing agency and the successful provider in negotiating the program budget. In addition, 808 CMR 1.00, currently and as may be amended in the future, may provide additional uses for the "Component Price Catalog Fiscal Year 1994" or the price ranges contained therein: See, for example, 808 CMR 1.08.

(4) Disclaimer. 808 CMR 3.00 does not impose any obligations on a purchasing agency to use a component pricing methodology or the "Component Price Catalog Fiscal Year 1994" in a procurement and does not create any independent right in a bidder or a provider in a procurement. 808 CMR 3.00 promulgates 808 CMR 3.00-Appendix A for use by a purchasing agency after it first determines to use component pricing in a procurement pursuant to 808 CMR 3.02(2). Any rights to an administrative appeal relative to the pricing of a social service program or relative to the procurement of a social service program are set forth in 808 CMR 1.00 and 808 CMR 2.00. In some instances, additional administrative appeal routes are set forth in the request for proposals or in purchasing agency policies. All prices negotiated and paid pursuant to 808 CMR 3.00 are subject to the reimbursable cost standards contained in 808 CMR 1.15.

(5) Waivers. Upon request of a purchasing agency, the Division of Purchased Services may waive the applicability of one or more provisions of 808 CMR 3.00 or 808 CMR 3.00 - Appendix A, provided that all such requests and approvals:

- (a) are in writing, signed by the Agency Head;
- (b) specify the transactions to which such waiver would apply and the provisions of 808 CMR 3.00 or 808 CMR 3.00-Appendix A to be waived; and,
- (c) are accompanied by supporting documentation deemed sufficient by the Division to support the special circumstances or need for relief.

The original waiver shall be kept on file by the Division. A copy of the waiver shall be kept on file by the purchasing agency with other relevant documents.

1. INTRODUCTION

THE PRINCIPLES OF COMPONENT PRICING

The component pricing system is based on the notion that all social service programs are composed of varying sets of functional components, some of which are common to all programs and others of which are specific to certain programs or program types. The Division of Purchased Services (also referred to as "DPS") develops standard, market-based prices for the total set of functional components anticipated to be used in social service programs and publishes them in this Catalog. During the procurement of contracted programs which are based on component pricing pursuant to 808 CMR 3.00 and the negotiation of the programs' budgets, Purchasing Agencies and Providers build programs using the functional components listed and negotiate prices within the cost standards (e.g. cost ranges, cost formulas or negotiated costs) specified in the Component Price Catalog for the chosen components. In this context it is intended that all bidders will compete on an equitable basis, using the cost standards and principles contained in the Catalog. After the type of components necessary to operate the program are determined, the individual component prices may be negotiated within the permitted "fair market" ranges to determine the ultimate program price. In this manner, negotiations of program price necessarily follow considerations of the functional resources necessary to serve the needs of a particular consumer population (hence the oft-used expression "price follows program"). Moreover, the resulting negotiated price will, by virtue of the use of the market-based Catalog, represent a "fair" price for the program being purchased. Because the price will be "fair", the program financial review should be "bottom line driven" in that Providers should be given considerable flexibility to spend contracted dollars as necessary to deliver quality services -- if a particular Provider's expenses are less than the amount budgeted using Component Pricing principles due to the Provider's successful control of costs while providing an acceptable quality of services, the Provider may retain the surplus. This surplus retention ability is limited by 808 CMR 1.19 and is subject to service delivery requirements, and the allowable cost standards contained in 808 CMR 1.00.

THE PROCESS FOR COMPONENT PRICING

Understanding component pricing requires an understanding of the larger program development and procurement process of which component pricing is a part.

The process begins with the program's clients. The Purchasing Agency and the Provider must agree on the target population and on suitable goals or desired outcomes for the program's clients. This is accomplished through the procurement process, the Request for Proposal, the proposal submission and the negotiation process.

To achieve desired client outcomes, a program must provide a mix of services. For example, if a change in client behavior is desired, the Purchasing Agency and the Provider must agree on a course of behavior modification designed to produce the change.

Program of services, in turn, requires resources. Conducting a behavior modification program, for example, requires properly trained and supervised staff, instructional materials and appropriate facilities. These required program resources are the "program components".

Although each social service program is unique, every program is designed and built from a universal set of components. The target population, program model and desired outcomes will determine which particular "program components" need to be selected from the universal set described in this Catalog. Some program components are common to all social service programs; all programs require staff, but appropriate staffing patterns vary by program.

Rather than separately pricing each unique program and its constituent component parts based on the program's past spending or expected future expenses, all programs are priced based on the standard prices or price ranges that have been developed for the list of universal program components. Thus, developing a program budget for an individual program involves matching (and negotiating) these component prices to the specific program components which the Purchasing Agency and Provider agree are necessary to operate the program. For many components, the listed prices are set forth as ranges, in which case, the Purchasing Agency and Provider may negotiate the amounts for particular components as long as the negotiations take place within the ranges set forth in the Catalog.

3.00 - Appendix A: continued

Detailed, step-by-step instructions for developing program prices, the component prices themselves and the methodologies used to establish the component prices are set forth in later sections of this Catalog.

The Component Price Catalog will be updated periodically to reflect changing market prices, improved data collection and continuing analysis. The most recent edition should always be used when developing prices for programs being competitively procured using component pricing methodology.

IMPLEMENTATION OF COMPONENT PRICING

When component pricing is being implemented, it is generally being implemented by Purchasing Agencies as part of their annual procurement cycles. Therefore, Providers will most likely first encounter component pricing principles in requests for proposals (RFPs) issued by Purchasing Agencies.

The implementation of component pricing in the competitive procurement process is intended to provide all bidders with an equitable basis from which to develop and propose a program price. Therefore, the average price per FTE for each staff component in a program budget must reflect at least the minimum end of the component price range. The maximum amount that a Purchasing Agency is permitted to reimburse for a component is limited to the high end of the range. Should a bidder choose to exceed the high end of the Catalog price range for a given program component in the budget proposal, and should it be awarded the contract, then the bidder will need to use non-Commonwealth funds for the excess (and must be prepared to document how this will occur both in the proposal and in the final executed contract). If a bidder submits a budget proposal containing one or more components priced below the low end of the price ranges for those components, then that proposal should be eliminated from further consideration. Where budget negotiations take place, component prices may be negotiated as long as the negotiations stay within the price ranges.

Purchasing Agencies should review proposals for compliance with the Catalog's terms. Each bidder's budget proposal for direct care personnel should be compared to the Catalog by dividing the budgeted amount by the budgeted FTEs. The resulting amount must be within the component price range if the proposal is to qualify for further consideration. Although a Provider is not required to pay all employees within the Catalog price range for a particular position, the average price per FTE for the component must be within the Catalog range.

BASIC CONCEPTS

PROGRAM REQUIREMENTS

The terms of the Attachment A (not the resources currently available in a program) govern the selection of the proper program components and their corresponding price ranges. For example, the Catalog furnishes separate component price ranges for "Social Worker-LICSW" and for "Social Worker-LSW". If the Attachment A specifies a social worker, without requiring the employment of an LICSW, then any of the Social Worker components could be used. If a higher level of Social Worker is required, the Purchasing Agency should include this specification in the Request for Proposals, and the bidder in its proposal. The fact that the program currently employs an LICSW is irrelevant and the Provider should not attempt to match a Catalog component to the salary range of the current employee. Rather, the budgeted position should be the component which is most appropriate to meet the needs of the program's clients.

PROGRAM CAPACITY

The assumptions used to calculate the program's price should always reflect the expected program operational capacity, not the actual utilization. If utilization falls below a certain level, then the Provider and the Purchasing Agency should adjust the operational capacity and re-negotiate the amount of resources needed for the revised capacity.

3.00 - Appendix A: continued

NEGOTIABLE PRICES

Almost all component prices may be negotiated within the parameters listed in the Catalog. For certain program components, the Catalog states a price range or formula for determining the price; in those cases the agreed upon reimbursable price must fall within the limits of the component price range stated in the Catalog. For the remaining components defined in the Catalog, a price range is not furnished and the price is stated to be "negotiable". For such "negotiable" program component prices, the parties are free to fully negotiate an acceptable price. The Purchasing Agency, however, may use its own guidelines for determining a reasonable amount for specific negotiable components. In no case may the negotiated component price exceed the limits set forth in 808 C.M.R. 1.15 (non-reimbursable costs).

CREDENTIALS

Direct care/program staff components are defined, in part, in terms of required credentials. It is not relevant to the proper classification of a position that a staff member who currently fills the position possesses a particular credential, unless the RFP or contract requires the credential for that position.

FUNCTION vs. TITLE

Direct care/program staff components are determined by their program function. For example, a licensed physician should be classified as a "Physician" only if the physician provides medical care as outlined in the component definition. If a physician performs the functions of a "Program Director", then that component should be used.

It is the functional definition, not the title, which governs the choice of a particular component. A program's "Residence Director", for example, may be classified as a Program Manager, Program Director, Assistant Program Director, or Supervisor, depending upon the actual functions performed and the scope of responsibility involved. Yet the fact that the titles used in the Catalog coincide with titles customarily used by program staff does not settle the question of proper classification. Again, the Catalog definitions govern. A particular program position is classified as a "Case Worker/Manager", rather than as a "Counselor", if the required credentials and responsibilities coincide more closely with the definition of "Case Worker".

The Catalog is formatted to establish a hierarchical schedule for the components, e.g. the Program Director would report to the Program Manager, and a Direct Care/ Program Staff I would report to a Direct Care/ Program Staff Supervisor.

All direct care or program staff positions which are not specifically defined in the Catalog, such as American Sign Language interpreter, phlebotomist, instructor, resource librarian, medical technician, health education specialist, work procurement specialist, certified occupational therapy assistant, etc., should be classified as "Direct Care/Program Staff I, II or III", as appropriate.

PRICE RANGE

The ranges set forth for each direct care/program staff component are intended to accommodate such factors as geographic location, seniority, shift differentials, supervisory responsibilities, bilinguality (including American Sign Language), as well as the developmental needs of the client(s). Based on these factors, the Purchasing Agency and Provider may negotiate a final component price from within the established range. All prices are based on one FTE. An FTE is based on a complete work week for a full year. A person working in a summer program for ten weeks would not be considered 1.0 FTE, the person would be .19 FTE (10wks/52wks).

SPECIAL CONSIDERATIONS: OVERTIME, ON-CALL AND SLEEP POSITIONS

In order to avoid misrepresenting average costs per FTE for certain direct care staff components, the costs associated with overtime, on-call and sleep positions must be separately identified on the budget. Further instructions on this are contained in Section II, "Component Price Ranges", following Component 138.

3.00 - Appendix A: continued

HOW TO USE THIS CATALOG TO DEVELOP RATES

The following is a step-by-step guide to developing a program budget proposal using the Component Price Catalog. Upon award of a contract, further negotiations between the Provider and Purchasing Agency may occur in accordance with the principles established in the Catalog. Detailed instructions on the correct use of individual program components and their component prices are included with the component definitions in section II of this Catalog.

Step 1. Before beginning the pricing process, the Attachment A of the Request for Proposal or contract document should be completed as it is necessary for the proper completion of the Attachment B budget proposal.

Step 2 Carry over to the Attachment B budget all component resources that are needed to operate the program specified in the Attachment A proposal.

In carrying over resources from the Attachment A, it is necessary to categorize the resources using the program components listed in this Catalog. Accordingly, it is essential to thoroughly review the Catalog's program component definitions and/or the Catalog index carefully in order to avoid misclassification of required resources. If the particular position title or function is not specified, it should be included in the generic "Direct Care" section.

Step 3 For each Direct Care/Program Staff component entered on the Attachment B at Step 2, enter the required full-time equivalents under the column entitled "FTEs". The FTE must be based on a full year, e.g., if the program only operates for three months, someone working full time for three months would be .25 FTE (3/12). If a person works 20 hours a week for a full year and the standard work week for the agency (not the program) is 40 hours, then this position would be .5 FTE. Add all FTE's of the same component title on one line.

Step 4 For each "Program Component" listed in the budget, enter a price from within the Component Price Range contained in this Catalog. The budget should indicate the full cost of the component line, but should then note the cost of any related overtime portion of the budget as a footnote or through some other separate method. The inclusion of overtime costs without any notation may cause the component price to exceed the price range, thereby disqualifying a proposal. Price comparisons should only involve the comparison of base salaries to the Catalog amounts. If the proposed price for a component is less than the component price range, then the bidder's proposal will be eliminated from consideration for award. In addition, Purchasing Agencies may only agree to reimburse amounts which fall within the component range. If the bidder chooses to propose a price which exceeds the Catalog price range, then the bidder will need to document that it has non-Commonwealth funds to cover the excess cost.

Step 5 Add the amounts for each component on the Attachment B, enter the relevant subtotal for each category and the total sum on the "Program Total" line. Refer to separate instructions for the Attachment B forms for further development of the program price.

II. COMPONENT PRICE RANGES

CATEGORY 1: DIRECT CARE / PROGRAM STAFF

Category 1 includes direct care staff/program staff required to provide direct care or deliver other primary program services. (Components 101 -151)

101 Program Manager

An individual who has overall responsibility for the management, oversight and coordination of a programmatic functional area within or across programs as in the case of "Medical Director", "Residence Director", "Clinical Director", "Education Director", etc. (Compensation for individuals whose primary responsibilities are administrative and cut across several programs should be classified under 410 - "Agency Administration and Support" component.)

Price: Negotiable

102 Program Director

An individual who has overall responsibility for the daily operation of one or more individual programs.

Price Range: \$20,000 to \$59,250

103 Assistant Program Director

An individual who reports directly to the Program Director, acts for the Program Director in his/her absence, and functions as an advisor/assistant to the Program Director.

Price Range: \$17,000 to \$50,362

104 Supervising Professional

A credentialed professional (Physician, Psychiatrist, Social Worker, Nurse, etc.) whose primary responsibility is the supervision of fellow credentialed professionals in the daily performance of their programmatic functions. A professional whose duties chiefly entail supervision of nonprofessionals or paraprofessionals should be classified under 133 - Direct Care/ Program Staff Supervisor. Supervisors assigned to this component may also provide incidental direct client care.

Price Range: \$22,610 to \$44,546

105 Physician

A Board of Registration in Medicine-licensed or Board-eligible physician (including all medical specialties, e.g., dentist, podiatrist except psychiatry Component 121) with either an MD or DO degree whose primary responsibility is delivery or supervision of health/medical care to program participants.

Price Range: \$58,396 to \$111,000

106 Physician's Assistant

An individual registered as a physician's assistant by the Department of Public Health and functioning in that capacity.

Price Range: \$37,293 to \$51,422

107 Registered Nurse - Master's. Nurse Psychiatric Mental Health Specialist, Nurse Practitioner. An individual who possesses a Master's degree in nursing and/or is registered by the Board of Registration in Nursing as a registered nurse and is practicing in an expanded role and functioning in any of the above capacities.

Price Range: \$34,660 to \$64,659

108 Registered Nurse

An individual who is licensed as a registered nurse by the Board of Registration in Nursing (both BSNs and others) and is engaged in nursing duties.

Price Range: \$33,799 to \$52,228

109 Licensed Practical Nurse

A person licensed as a practical nurse by the Board of Registration in Nursing and engaged in nursing duties.

Price Range: \$21,216 to 30,224

110 Pharmacist

A person licensed by the Board of Registration in Pharmacy and functioning as a pharmacist.

Price Range: \$29,910 to \$43,243

5.00) - Appendix A. continued

111 Occupational Therapist

An individual registered as an occupational therapist by the Board of Registration in Allied Health Professionals and who provides occupational therapy.

Price Range: \$33,706 to \$51,168

112 Physical Therapist

A person registered as a physical therapist by the Board of Registration in Allied Health Professionals and who provides physical therapy.

Price Range: \$33,439 to \$51,383

113 Speech/Language Pathologist, Audiologist

An individual registered as a Speech/Language Pathologist or as an Audiologist by the Board of Registration in Speech/ Language Pathology and Audiology and who provides speech and hearing therapy.

Price Range: \$31,149 to \$44,134

114 Dietitian/Nutritionist

An individual registered as a dietitian by the Commission on Dietetic Registration of the American Dietetic Association and providing nutritional counseling, education, supervision of meal/menu preparation, or an individual with a Bachelor's or Master's degree in nutrition who provides nutritional counseling, education, supervision of meal/menu preparation.

Price Range: \$24,232 to \$35,443

115 Special Education Teacher

A teacher certified in special education by the Massachusetts Department of Education and working in that capacity.

Price Range for 12-Month Program:

\$26,135 to \$47,111

Price Range for Programs that are open 180 days:

\$21,779 to \$39,259

116 Teacher

A teacher holding teacher certification by the Massachusetts Department of Education in an area other than special education and working in that capacity.

Price Range for 12-Month Program:

\$26,135 to \$47,111

Price Range for Programs that are open 180 days:

\$21,779 to \$39,259

117 Day Care Director

An individual certified by the Office for Children as a Day Care Director and functioning in that capacity.

Price Range: \$22,902 to \$35,269

118 Day Care Lead Teacher

An individual certified by the Office for Children as a Day Care Lead Teacher and functioning in that capacity.

Price Range: \$20,300 to \$30,800

119 Day Care Teacher

An individual certified by the Office for Children as a Day Care Teacher and functioning in that capacity.

Price Range: \$16,675 to \$25,300

120 Day Care Assistant Teacher/Aide

An individual certified by the Office for Children as a Day Care Assistant Teacher/Aide and functioning in that capacity.

Price Range: \$14,500 to \$22,000

3.00 - Appendix A: continued

121 Psychiatrist

An individual licensed to practice medicine, certified or eligible for certification by the American Board of Psychiatry and primarily involved in rendering or directing psychiatric care.

Price Range: \$58,396 to \$111,000

122 Psychologist - Doctorate

An individual holding a doctoral degree in psychology (including behavioral psychologists and neuropsychologists), or a closely related field, registered as a psychologist by the Board of Registration of Psychologists and primarily engaged in providing diagnostic evaluations, psychological counseling/therapy or development and implementation of behavioral treatment plans.

Price Range: \$42,000 to \$62,778

123 Psychologist - Master's

An individual holding a Master's degree in psychology (including behavioral psychologists) or a closely related field and primarily engaged in providing diagnostic evaluations, psychological counseling or development and implementation of behavioral treatment plans.

Price Range: \$24,645 to \$47,084

124 Social Worker - LICSW

An individual registered as a Licensed Independent Clinical Social Worker by the Board of Registration of Social Workers and primarily engaged in providing diagnostic evaluations, psychological counseling/therapy or development and implementation of behavioral treatment plans.

Price Range: \$26,440 to \$55,994

125 Social Worker - LCSW

An individual registered as a Licensed Certified Social Worker by the Board of Registration of Social Workers and providing social work services.

Price Range: \$24,300 to \$45,344

126 Social Worker - LSW

An individual registered as a Licensed Social Worker by the Board of Registration of Social Workers and providing social work services (including casework/counseling).

Price Range: \$22,350 to \$38,892

127 Licensed Counselor

An individual with at least a Master's degree in counseling, or a related discipline, who is licensed by the appropriate Board of Registration and who provides counseling services.

Price Range: \$22,350 to \$38,892

128 Certified Vocational Rehabilitation Counselor

An individual who is certified by the Committee on Accreditation of Rehabilitation Facilities and who provides vocational rehabilitation counseling.

Price Range: \$23,957 to \$37,629

129 Certified Alcoholism Counselor, Certified Drug Abuse Counselor, Certified Alcoholism/Drug Abuse Counselor

An individual who is registered as either an Alcoholism Counselor, a Drug Abuse Counselor or both by the Massachusetts Board of Substance Abuse Counselor Certification and who provides counseling services for substance abusers.

Price Range: \$20,300 to \$30,800

130 Counselor

An individual who provides therapeutic or instructive counseling to program clients/service recipients.

Price Range: \$16,675 to \$25,300

131 Case Worker/Manager - Master's

An individual possessing at least a Master's degree in counseling, or a closely related discipline, who provides casework/case management services including service eligibility determination, service plan development, service coordination, resource development, advocacy, etc.

Price Range: \$22,350 to \$38,892

3.00 - Appendix A: continued

132 Case Worker/Manager

An individual who provides casework/case management services, including service eligibility determination, service plan development, service coordination, resource development, advocacy, etc.

Price Range: \$16,675 to \$25,300

133 Direct Care/Program Staff Supervisor

A staff member whose primary responsibility is the supervision of nonprofessional or paraprofessional direct care/program staff in the performance of their programmatic functions or whose duties involve significant responsibility for program operations or logistics. A supervisor in this component may also perform direct client care.

Price Range: \$19,176 to \$33,880

134 Direct Care/Program Staff III

Staff, other than those defined above, requiring a doctoral or Master's degree, specific credentials or licensure, significant experience, or specialized skills, who are responsible for the general daily care of program clients/service recipients or for primary program service delivery. This category may also be used to reflect a shift differential or bilinguality (including American Sign Language) or specialized staff requirements necessary to serve the developmental needs of the client(s) for staff otherwise categorized as Direct Care/Program Staff II.

Price Range: \$20,300 to \$30,800

135 Direct Care/Program Staff II

Staff, other than those defined above, requiring a Bachelor's degree, experience or specific skills, who are responsible for the general daily care of program clients/service recipients or for primary program service delivery. This category may also be used to reflect a shift differential or bilinguality (including American Sign Language) or specialized staff requirements based on the developmental needs of the client(s) for staff otherwise categorized as Direct Care/Program Staff I.

Price Range: \$16,675 to \$25,300

136 Direct Care/Program Staff I

Staff, other than those defined above, who are responsible for the general daily care of program clients/service recipients or for primary program service delivery. This includes relief employees on payroll.

Price Range: \$14,500 to \$22,000

137 Program Secretarial, Clerical Staff

Program secretarial and clerical staff required to carry on direct program clerical activities such as program or client record keeping. Accounting/Billing Staff are included as part of the Agency Administration & Support component (Component 410).

Price Range: \$15,021 to \$29,833

138 Program Support, Housekeeping, Maintenance, Janitorial, Grounds Keeper, Driver, Cook

Program housekeeping, maintenance and janitorial staff, grounds keepers, drivers or cooks and staff who carry out direct program activities for client health and safety. Staff for administrative facilities and functions are included in the Agency Administration & Support component (Component 410).

Price Range: \$16,065 to \$28,764

Sleep Positions

Sleep positions should be reported separately on the budget as a "Direct Care I/Sleep" component. These positions should not be included with other Direct Care I components. The amount budgeted per FTE for sleep positions can be less than the low end of the range of the Component Price Catalog. The budget should clearly indicate that this component is for sleep positions.

Overtime Costs

The budget should indicate the full cost of the component line, but should then list the related overtime portion of the cost on the budget as a footnote or through some other separate method. The inclusion of overtime costs without notation may cause the proposed component price to exceed the Catalog price range, thereby disqualifying a proposal. Price evaluations should only involve the comparison of base salaries to the Catalog amounts.

3.00 - Appendix A: continued

On-Call Costs

The budget should indicate the full cost of the component line, but should then note the related on-call portion of the cost on the budget as a footnote or through some other separate method. The inclusion of on-call costs, without notation, may cause the component price to be less than the applicable Catalog price range, thereby disqualifying a proposal. Separate notation of on-call costs ensures that price comparisons will only involve the comparison of base salaries to the Catalog amount.

150 Payroll Taxes

Employer's share of FICA, MUICA, Worker's Compensation Insurance, FUTA (in the case of For-Profit Providers) and other payroll taxes paid by the employer on the direct care/program staff listed in Category I on the budget.

Price Range: Negotiable

151 Fringe Benefits

Life, health and medical insurance, pension and annuity plan contributions, day care, tuition benefits and all other non-salary/wage benefits received by the direct care/program staff listed in Category I on the budget as compensation for their personal services.

Price Range: Negotiable

CATEGORY 2: OTHER DIRECT CARE/PROGRAM RESOURCES

(Components 201 - 216)

Category 2 includes resources, other than direct care staff/program staff, required to carry out direct client care or support the delivery of other primary program services.

201 Program Consultants

Individuals possessing specialized experience or expertise in matters of individual service plan design, program design, program management or operation and who are engaged to provide technical assistance on matters of appropriate client care, program design, etc.

Price: Use prices as provided under Component 202 - Direct Care Specialists. If the consultant is not listed, the price is negotiable.

202 Direct Care Specialists

Individuals, in some cases, possessing specialized skills or expertise in client care and treatment, engaged on an "as needed", "on call", "standby" or "specialist" basis, to provide client care or treatment. This component includes contracted relief.

Price: The following is a listing of direct care specialist services and the pricing regulation currently applicable to the service. (Regulations in the 114.3 series are issued by the Massachusetts Rate Setting Commission and are available from the State Bookstore). The Division of Purchased Services or Rate Setting Commission Certified Program Rate stated in the applicable regulation must be used. If the service is not listed, the price is negotiable.

<u>Direct Care Specialist</u>	<u>Applicable Reg.</u>
Physician	114.3 CMR 17.00
(Initial Client Evaluation and In Office Services)	
Nurse-LPN	114.3 CMR 24.00
Nurse-RN	
(Ongoing Patient Care)	114.3 CMR 24.00
(Consultation)	114.3 CMR 30.00
Nurse Practitioner	114.3 CMR 17.00
Occupational Therapist	114.3 CMR 39.00
(In Office Services and Out of Office Services)	
Physical Therapist	114.3 CMR 39.00
(In Office Services and Out of Office Services)	
Audiologist	114.3 CMR 39.00
Speech/Language Therap	114.3 CMR 39.00
(In Office Services and Out of Office Services)	
Psychiatrist	114.3 CMR 17.00
(On Call)	

3.00 - Appendix A: continued

Psychologist-Licensed	114.3 CMR 29.00
Social Worker-LICSW/LCSW	114.3 CMR 30.00
Counselor-Master's	114.3 CMR 30.00
Dentist	114.3 CMR 14.00
Chiropractor	114.3 CMR 28.00
Podiatrist	114.3 CMR 26.00
Personal Care Attendant	114.3 CMR 9.00
Direct Care/Program Staff	\$7.00 - \$16.00 per hour

203 Provider Reimbursement/Stipends

Per diem reimbursement to independent individual care givers (not provider agency employees), such as family day care providers, specialized home care providers or foster families, to compensate them for their personal services and/or to defray all or a portion of the costs associated with client care in their homes.
Price Range: Refer to price established by the Purchasing Agency

204 Staff Training

Formal instruction to meet professional continuing education requirements, to satisfy program licensure requirements or to enable direct care staff to acquire and maintain acceptable levels of knowledge, skill and proficiency for the routine performance of their assigned functions. (Note that the staff time devoted to training should be included in the calculation of required direct care staff FTEs. Staff tuition/educational benefits paid as a condition of employment should be included in "Fringe Benefits" Component 151.)

Price: Negotiable

205 Staff Mileage/Travel

Direct care staff travel within the normal scope of the staff members' assigned duties. This category includes use of a staff member's own vehicle, as well as public transportation.

Price: Negotiable (Maximum Reimbursable \$.28 per mile)

206 Subcontracted Direct Care

Client care or other program services which are a primary and integral part of the total program but which are furnished to the program, under contract, by a separate program of another provider.

Price: The Division of Purchased Services or Rate Setting Commission Certified Program Rate must be used if applicable. Otherwise, the price is negotiable.

207 Meals

Food, cooking materials, and other resources (other than staff compensation) required for the planning, preparation and serving of meals and snacks to clients and, if programmatically necessary, to staff.

Price: Negotiable

208 Client Transportation

The resources (other than staff compensation) associated with transportation of clients to, from or among program sites as a routine part of program participation. This component shall include Provider owned vehicles (depreciation and finance charges) or leased vehicles, all associated operating, maintenance, insurance and non-owned auto insurance costs, contracted transportation, etc.

Price: Negotiable

209 Incidental Health/Medical Care

The resources (other than staff compensation) associated with providing health/medical care on an as needed or emergency basis (including ambulance services) to clients of a program which is not primarily intended to address the on-going medical needs of program participants.

Price: Negotiable

210 Medicine/Pharmacy

The resources (other than staff compensation) associated with on-site inventory and administration of medically necessary prescription pharmaceuticals, patent medicines and medical supplies.

Price: Negotiable

3.00 - Appendix A: continued

211 Client Personal Allowances

Cash paid to program clients as an incentive to program participation, as part of instruction in money management, to give clients a measure of economic independence, to acquire personal items, or other program purpose. This category includes "indirect" client wages (i.e. "wages" which are not related to the economic value of the client's work product/productivity).

Price: Negotiable

212 Provision of Material Goods, Services and Benefits

Resources, other than those defined above, associated with provision of material goods or services - such as prosthetic and adaptive devices, nutrition or day care vouchers - to eligible program clients/recipients.

Price: Negotiable

213 Data Processing

Resources (other than staff compensation) associated with the collection, analysis and reporting of data as a primary program function (as distinguished from data processing as an administrative or support function), including owned (depreciation and finance charges only) or leased computer hardware and software. This component does not include data processing services or equipment for client or third-party billing, these resources should be included in agency administration (see Component 410).

Price: Negotiable

214 Commercial Income Resources

Resources, other than those defined above, such as consumer wages, benefits and taxes, raw materials, production equipment and consumables, freight and transportation, and marketing associated with the use of client labor in the production or assembly of a product or service as a part of the client's program of vocational training/rehabilitation or sheltered employment.

Price: Negotiable

215 Program Supplies and Materials

Program residential, educational, vocational and recreational supplies and materials routinely required for ongoing direct client care or program service delivery.

Price: Negotiable

216 Program Support

This component is for direct program support which is associated with a single program and not allocated across programs. This component does not include personnel; all program personnel must be included in components 101 - 138. Program support is for costs specifically associated with the program being priced, which may include office supplies and materials, telephone, advertising and recruitment; postage, printing and reproduction, working capital interest, leasing or routine replacement (depreciation and finance interest only) of office equipment, equipment maintenance, accreditation fees, and professional insurance. The reimbursable component price can not include resources defined as Non-Reimbursable Costs by 808 CMR 1.15, e.g., certain consultant compensation, current expensing of capital budgets, fund-raising etc..

Price Range: Negotiable

CATEGORY 3: OCCUPANCY**301 Program Facilities**

Owned or leased program facilities and grounds (including rent or mortgage interest and building depreciation). This component can not include the costs of principal or amortization, which are non-reimbursable costs under 808 CMR 1.15.

Price: Negotiable

390 Facilities Operation, Maintenance and Furnishing

This category includes all resources associated with occupancy; furnishing and maintenance of program facilities, including all utilities (other than telephone), contracted housekeeping, laundry, contracted grounds keeping, routine repair and maintenance, lease and routine replacement (depreciation and finance charges only) of program furnishings and equipment, property and general liability insurance, real estate taxes or payments in lieu of taxes, and all other such resources/expenses. This component does not include the cost of employees on the payroll (see 138 - Program Support Housekeeping, Maintenance, Grounds Keeper, Janitorial, Driver, Cook).

Price: Negotiable

3.00 - Appendix A. continued

CATEGORY 4: ADMINISTRATIVE SUPPORT

410 Agency Administration and Support

This component is for resources which cross all agency programs and cannot be directly associated with one program or a combination of programs. This component includes all resources reasonably necessary for the policy making, management, and administration of the provider organization as a whole and all other agency activities. It may include management, administrative, clerical and support personnel, office supplies and materials, leasing or routine replacement (depreciation and financing interest only) of office equipment, telephone, costs related to occupancy of administrative premises, advertising and recruitment, postage, printing and reproduction, administrative and support staff training and travel, officer/director/trustee compensation, parent organization costs, legal, auditing, management consultants and other professional fees, working capital interest, directors and officers insurance, and all other similar or related resources/expenses that are not directly attributed to one or more programs. The reimbursable component price can not include resources defined as Non-Reimbursable Costs by regulation 808 CMR 1.15, e.g., fund-raising or discriminatory benefits.

Price: Negotiable up to the applicable maximum allowable percentage. The price for agency administration is calculated as a percentage of total program expenses, minus any non-reimbursable program expenses pursuant to 808 CMR 1.15. The maximum allowable percentage for agency administration is set forth below, and varies according to the agency's overall size. Note: The application of the percentage to total program expenses is a change from previous practice, which applied the percentage to the subtotal of direct program expenses only.

Provider Agency Gross Operating Expenses From the Most Recent Financial Statements	Maximum Reimbursable Administrative Rate
\$ 1 - \$1,000,000	Up to 23.85%
\$1,000,000 - \$1,250,000	Up to 22.11%
\$1,250,001 - \$1,500,000	Up to 20.36%
\$1,500,001 - \$1,750,000	Up to 19.12%
\$1,750,001 - \$2,000,000	Up to 17.87%
\$2,000,001 - \$2,250,000	Up to 17.22%
\$2,250,001 - \$2,500,000	Up to 16.56%
\$2,500,001 - \$2,750,000	Up to 16.51%
\$2,750,001 - \$3,000,000	Up to 16.47%
\$3,000,001 - \$3,250,000	Up to 16.42%
\$3,250,001 - \$3,500,000	Up to 16.36%
\$3,500,001 - \$3,750,000	Up to 15.97%
\$3,750,001 - \$4,000,000	Up to 15.58%
\$4,000,001 - \$4,250,000	Up to 15.17%
\$4,250,001 - \$4,500,000	Up to 14.78%
\$4,500,001 - \$4,750,000	Up to 14.39%
\$4,750,001 - \$5,000,000	Up to 14.00%
\$5,000,001 +	Up to 13.76%

3.(X) - Appendix A. continued

III. INDEX

Alphabetical Listing of Expenses and Corresponding Components

Expense	Component
Accounting & Audit Fees	Agency Admin. (410)
Accreditation Fees	Program Support (216)
Advertising - Direct Care	Program Support (216)
Ambulance	Incidental Health (209)
Amortization Costs	* Non - Reimbursable Cost
Annuity Contribution for Direct Care Staff	Fringe Benefits (151)
Annuity Contribution for Admin Staff	Agency Admin. (410)
Assistant Program Director	Asst. Program Director (103)
Audiologist	Speech/Language (113)
Bad Debt	* Non-Reimbursable Cost
Case Worker/Manager - Master's	Case Worker/Mgr - Mast (131)
Case Worker/Manager	Case Worker/Manager (132)
Certified Alcoholism/Substance Abuse Counselor	Certified Alcoholism/Substance Abuse Coun (129)
Certified Vocational Rehab Counselor	Certified Vocational Rehab. Counselor (128)
Client Personal Allowance	Client Personal Allowance (211)
Client Incentive/Reward Fund	Client Personal Allowances (211)
Client Wages - Direct	Comm Income Resources (214)
Contracted Relief	Direct Care/Specialists (202)
Cook	Program Support Staff (138)
Counselor	Counselor (130)
Counselor Licensed	Licensed Counselor (127)
Data Processing - Direct Program	Data Processing (213)
Data Processing - Administration	Agency Administration & Support (410)
Day Care Assistant Teacher/Aide	Day Care Asst Teacher/Aide (120)
Day Care Director	Day Care Director (117)
Day Care Teacher	Day Care Teacher (119)
Dentist	Physician (105)
Depreciation Eqp/Furn	Program Supplies (215)
Depreciation Eqp/Furn	Facilities Operation (390)
Depreciation Motor Vehicles - Program	Client Transportation (208)
Depreciation Motor Vehicles - Agency Admin	Agency Administration & Support (410)
Depreciation Building	Facilities Operation (390)
Depreciation Building - Agency Admin	Agency Administration & Support (410)
Dietitian	Dietitian (114)
Directors & Officers Insurance	Agency Administration & Support (410)
Driver	Program Support Staff (138)
FICA (Direct Care)	Payroll Taxes (150)
FICA - Agency Admin	Agency Administration & Support (410)
Finance Charges Eqp/ Furn - Admin	Agency Administration & Support (410)
Finance Charges Motor Vehicles - Program	Client Transportation (208)
Finance Charges Motor Vehicles - Admin	Agency Administration & Support (410)
Finance Charges Workg Cap - Program	Program Support (216)
Finance Charges Workg Cap - Admin	Agency Administration & Support (410)
Fines	* Non-Reimbursable Cost
Food	Meals (207)
Fund-raising	* Non-Reimbursable Cost
Equipment Furnishings < \$500	Program Supplies (215)
Equipment Furnishings > \$500	Separate Capital Budget
Janitorial - Direct Program Staff	Program Support Staff (138)
Janitorial - Contracted	Facilities Operation (390)
Legal Fees - Client Related	Program Support (216)
Legal Fees	Agency Administration & Support (410)

3.00 - Appendix A: continued

Expense	Component (continued)
License Fees	Facilities Operation (390)
Licensed Practical Nurse	Licensed Practical Nurse (109)
Life Insurance (Direct Care Staff)	Fringe Benefits (151)
Maintenance Personnel - Payroll - Program	Prog. Support Staff (138)
Medical Insurance (Direct Care Staff)	Fringe Benefits (151)
Medicine	Medicine/Pharmacy (210)
Nutritionist	Dietitian (114)
Payroll Processing	Agency Administration & Support (410)
Penalties	* Non-Reimbursable Cost
Pension (Direct Care)	Fringe Benefits (151)
Principal on Debt	* Non-Reimbursable
Property Insurance	Facilities Operation (390)
Professional Insurance -	Program Support (216)
Relief - Contracted	Direct Care/Prog Specialists (202)
Relief on Payroll	Direct I, II, III or applicable Direct Care/Program Staff (101-151)
Security Deposit	* Non-Reimbursable Cost
Sleep Positions	Direct Care I (136)
Third-Party Billing Data Processing Equip. or Services	Agency Administration & Support (410)
Tuition Benefits - Direct Care Staff	Fringe Benefits (151)
Vehicle Insurance - Program	Client Transportation (208)
Vehicle Insurance - Agency Administration	Agency Administration & Support(410)
Unemployment Ins. (Direct Care)	Payroll Taxes (150)
Workers Compensation (Direct Care)	Payroll Taxes (150)

3.00 - Appendix A: continued

IV. SOURCES AND METHODOLOGIES

FOR INDIVIDUAL COMPONENT PRICES

The component prices included in this Catalog were developed for use in programs beginning in Fiscal Year 1994. Section IV sets forth, briefly, the methodologies used to develop the individual component prices so that they can be followed or refined in developing future years' component prices.

In many cases, component prices are based upon published material readily available to the general public. However, in some cases component prices are based on original survey research conducted by the Division of Purchased Services (DPS) or its predecessor, the Office of Purchased Services (OPS). In addition, some prices have been developed through analysis of databases developed by DPS or OPS.

102 Program Director

Source: The Office of Purchased Services conducted a survey of all human service provider staff salaries and associated turnover rates in fiscal year 1990 (the Salary/Turnover Survey).

The price ranges for program directors are based upon the slope of the curve defined by plotting the salary and the number of full-time equivalent staff supervised for each program director position reported. The curve was then segmented by FTEs supervised and the midpoint of each segment was calculated. The price range is based on the midpoint plus or minus 20 percent. Twenty percent is the average of the standard deviations in program director salaries for each grouping (segment), weighted by the number of program directors in each grouping and expressed as a percentage of the mean salary of the grouping. Additional weighting was also calculated for the supervision of professional staff.

103 Assistant Program Director

Source: The salary range was based on .85 times the salary range for the Program Director.

The multiplication factor for each salary range is the average of the ratios of Assistant Program Director salaries to Executive Director salaries as reported by respondents to the OPS Salary/Turnover Survey. This relationship was used as a proxy for the relationship between Program Director and Assistant Program Director because data on the latter were not available.

104 Supervising Professional

Source: The salary range was based on a factor of 1.15 times the range for the most frequently used professional components as determined by the 1991 Uniform Financial Statements and Independent Auditor's Reports.

The factor is the average of the ratios of total salaries designated as "supervisory" (as reported by respondents to the OPS Staff Salary/Turnover Survey) to total salaries designated as "senior" or "entry level" for each of the staff categories 105-129, weighted by the total number of reported positions in each staff category.

105 Physician

Source: Survey conducted by the Massachusetts League of Community Health Centers in 1991.

106 Physician's Assistant

Source: Unit 7 Collective Bargaining Agreement with the Commonwealth of Massachusetts, Appendix C - Pay Scales Effective October 1, 1989 - Physician's Assistant, Grade 6.

107 Registered Nurse, Master's, Nurse Practitioner, Psychiatric Nurse, Mental Health Specialist

Source: Salary Survey conducted by the Executive Office for Administration and Finance, Division of Purchased Services in December of 1992.

456 were randomly selected from a list of 2,548 Nursing Professionals obtained from the Massachusetts Board of Registration, were mailed a salary questionnaire. A sample size of 188 was needed to correctly predict the average annual salary within \$550 at a significance level of +/- 5%. 287 surveys were returned for an overall response rate of 63%. Nurses who were either self-employed, not working, or did not report an annual salary were excluded, leaving 192 respondents in the final analysis. A salary range was derived by using the average annual salary, plus or minus one standard deviation, and a weighting method to account for regional salary differences.

3.00 - Appendix A. continued

108 Registered Nurse

Source: Salary Survey conducted by the Executive Office for Administration and Finance, Division of Purchased Services in December of 1992.

299 nurses, randomly selected from a list of 78,694 Registered Nurses obtained from the Massachusetts Board of Registration were mailed a salary questionnaire. A sample size of 71 was needed to correctly predict the average annual salary within \$500 at a significance level of +/- 5%. 154 surveys were returned for an overall response rate of 51%. Nurses who were either self-employed, not working, or did not report an annual salary were excluded, leaving 113 respondents in the final analysis. A salary range was derived by using the average annual salary, plus or minus one standard deviation, and a weighting method to account for regional salary differences.

109 Licensed Practical Nurse

Source: Survey conducted by the Massachusetts Hospital Association in 1990.

110 Pharmacist

Source: Survey conducted by the Massachusetts Hospital Association in 1990.

111 Occupational Therapist

Source: Salary Survey conducted by the Executive Office for Administration and Finance, Division of Purchased Services in December of 1992.

244 Occupational Therapists, selected from a list of 2,246 Occupational Therapists obtained from the Massachusetts Board of Registration, were mailed a salary questionnaire. A sample size of 61 was needed to correctly predict the average annual salary within \$500 at a significance level of +/- 5%. 125 surveys were returned for an overall response rate of 51%. Occupational Therapists who were either self-employed, not working, or did not report an annual salary were excluded, leaving 88 respondents in the final analysis. A salary range was derived by using the average annual salary, plus or minus one standard deviation, and a weighting method to account for regional salary differences.

112 Physical Therapist

Source: Salary Survey conducted by the Executive Office for Administration and Finance, Division of Purchased Services in December of 1992.

259 Physical Therapists, randomly selected from a list of 5,382 Physical Therapists obtained from the Massachusetts Board of Registration, were mailed a salary questionnaire. A sample size of 64 was needed to correctly predict the average annual salary within \$500 at a significance level of +/- 5%. 129 surveys were returned for an overall response rate of 50%. Physical Therapists who were either self-employed, not working, or did not report an annual salary were excluded, leaving 92 respondents in the final analysis. A salary range was derived by using the average annual salary plus, or minus one standard deviation, and a weighting method to account for regional salary differences.

113 Speech Language Pathologist

Source: Salary Survey conducted by the Executive Office for Administration and Finance, Division of Purchased Services in December of 1992.

278 Speech Pathologists, randomly selected from a list of 2,857 Speech Language Pathologists obtained from the Massachusetts Board of Registration, were mailed a salary questionnaire. A sample size of 66 was needed to correctly predict the average annual salary within \$500 at a significance level of +/- 5%. 157 surveys were returned for an overall response rate of 56%. Nurses who were either self-employed, not working, or did not report an annual salary were excluded, leaving 129 respondents in the final analysis. A salary range was derived by using the average annual salary plus, or minus one standard deviation, and a weighting method to account for regional salary differences.

114 Dietitian/Nutritionist

Source: Survey conducted by the Massachusetts Hospital Association in 1990.

3.00 - Appendix A: continued

115 Special Education Teacher

Source: Massachusetts Department of Education, Bureau of Data Collection and Reporting, 1990-1991 Quirk v. Anrig Institutional School Teacher Salary Schedules, effective December 21, 1992. Using step 0 as the bottom of the range and step 9 as the top, these schedules, updated by DOE, are based on a statewide, weighted average of the salary schedules used by the Local Educational Authorities and are mandated for use by the Department of Education in institutional staffing, pursuant to the Quirk v. Anrig case. The salary range for 12 month programs has been increased by 20 percent to account for the year-round staffing procedures practiced by some special education programs, i.e., 12 months vs. 10 months.

116 Teacher

Source: Massachusetts Department of Education, Bureau of Data Collection and Reporting, 1990-1991 Quirk v. Anrig Institutional School Teacher Salary Schedules, effective December 21, 1992. Using step 0 as the bottom of the range and step 9 as the top, these schedules, updated annually by DOE, are based on a statewide, weighted average of the salary schedules used by the Local Educational Authorities and are mandated for use by the Department of Education in institutional staffing, pursuant to the Quirk v. Anrig case. The salary range for 12 month programs has been increased by 20 percent to account for the year-round staffing procedures practiced by some special education programs, i.e., 12 months vs. 10 months.

117 Day Care Director

Source: A study of salaries for Day Care Directors as reported in the Uniform Financial Statements and Independent Auditor's Reports for the year ending June 30, 1990 submitted to the Division of Purchased Services. The range was established by calculating the mean plus one standard deviation.

118 Day Care Lead Teacher

Source: The factor is the ratio of the mean salary for positions designated by the survey respondents in the OPS Staff Salary/Turnover Survey as "Direct Care/Program Staff III" to the mean salary for positions designated as "Direct Care Program Staff III - Entry or Senior Level".

119 Day Care Teacher

Source: The factor is the ratio of the mean salary for positions designated by the survey respondents in the OPS Staff Salary/Turnover Survey as "Direct Care/Program Staff II" to the mean salary for positions designated as "Direct Care Program Staff II - Entry or Senior Level".

120 Day Care Assistant Teacher/Aide

Source: Analysis of the OPS Staff Salary/Turnover Survey. The average annual salary for staff classified as "Direct Care Program Staff I" was \$15,979, and the average turnover rate for all such positions was 66.42%. For the same period, the turnover rate for all positions listed in this Catalog was slightly less than 40%. The midpoint of the price range, \$19,000, was set at the reported salary level at which turnover, on an average, matched the current average for all positions of 40%. The survey also disclosed a standard deviation for all direct care/program staff I salaries of approximately \$3,000. This figure was used to construct a range around the selected midpoint.

121 Psychiatrist

Source: Surveys conducted by the National Council of Community Mental Health Centers. The 1989 Survey of Salary, Benefits and Staffing Patterns of Community Mental Health Providers and the 1989 American Medical Association data published in the Psychiatric Times, January 1991.

122 Psychologist - Doctorate

Source: American Psychological Association Survey, Earned Income, 1989.

123 Psychologist - Masters

Source: American Psychological Association Survey, Earned Income, 1989.

3.00 - Appendix A: continued

124 Social Worker - LICSW

Source: Salary Survey conducted by the Executive Office for Administration and Finance, Division of Purchased Services in December of 1992.

430 Licensed Independent Clinical Social Workers, randomly selected from a list of 7,971 LICSWs obtained from the Massachusetts Board of Registration, were mailed a salary questionnaire. A sample size of 127 was needed to correctly predict the average annual salary within \$650 at a significance level of +/- 5%. 235 surveys were returned for an overall response rate of 55%. LICSWs who were either self-employed, not working, or did not report an annual salary were excluded, leaving 130 respondents in the final analysis. A salary range was derived by using the average annual salary, plus or minus one standard deviation, a weighting method to account for regional salary differences and years of experience.

125 Social Worker - LCSW

Source: Salary Survey conducted by the Executive Office for Administration and Finance, Division of Purchased Services in December of 1992.

180 Licensed Clinical Social Workers, randomly selected from a list of 6,305 LCSWs obtained from the Massachusetts Board of Registration, were mailed a salary questionnaire. A sample size of 44 was needed to correctly predict the average annual salary within \$500 at a significance level of +/- 5%. 70 surveys were returned for an overall response rate of 39%. LCSWs who were either self-employed, not working, or did not report an annual salary were excluded, leaving 54 respondents in the final analysis. A salary range was derived by using the average annual salary, plus or minus one standard deviation, a weighting method to account for regional salary differences and years of experience.

126 Social Worker - LSW

Source: Salary Survey conducted by the Executive Office for Administration and Finance, Division of Purchased Services in December of 1992.

68 Licensed Clinical Social Workers, randomly selected from a list of 2,644 LSWs obtained from the Massachusetts Board of Registration, were mailed a salary questionnaire. A sample size of 17 was needed to correctly predict the average annual salary within \$500 at a significance level of +/- 5%. 31 salaries were returned for an overall response rate of 46%. LSWs who were either self-employed, not working, or did not report an annual salary were excluded, leaving 23 respondents in the final analysis. A salary range was derived by using the average annual salary plus, or minus one standard deviation, a weighting method to account for regional salary differences and years of experience.

127 Licensed Counselor

Source: See: Social Worker - LSW, Component 126

128 Certified Vocational Rehabilitation Counselor

Source: Massachusetts Department of Education, Bureau of Data Collection and Reporting, 1990-1991 Quirk v. Anrig Vocational Rehabilitation Counselor II Salary Schedules.

Using step 0 as the bottom of the range and step 9 as the top, these schedules, updated annually by DOE, are based on a statewide, weighted average of the salary schedules used by the Local Educational Authorities and are mandated for use by the Department of Education in institutional staffing, pursuant to the Quirk v. Anrig case. This methodology does not recognize the difference in Educational level, as it is not required by the purchasers.

129 Certified Alcoholism Counselor

Certified Drug Abuse Counselor

Certified Alcoholism/Drug Abuse Counselor

Source: See: Direct Care Program Staff III, Component 134.

130 Counselor

Source: See: Director Care/Program Staff II, Component 135.

131 Case/Worker Manager - Master's

Source: See: Licensed Counselor, Component 127.

132 Case Worker/Manager

Source: See: Direct Care Program II, Component 135.

3.00 - Appendix A: continued

133 Direct Care/Program Staff Supervisor

Source: The range is determined by multiplying the average price range for the Direct Care Components by 1.20. This multiplication factor is the ratio of total salaries designated "supervisory" by survey respondents to the Staff Salary Turnover Survey to total salaries designated as "senior" or "entry level" for each of the staff categories, 134-136, weighted by the total number of reported positions in each staff category.

134 Direct Care/Program Staff III

Source: Direct Care I multiplied by 1.40. This multiplication factor is the ratio of the mean salary for positions designated by survey respondents in the Staff Salary/Turnover Survey as "Direct Care/Program Staff III" to the mean salary for positions designated as Direct Care/Program Staff I - Entry or Senior Level.

135 Direct Care Program Staff II

Source: Direct Care I multiplied by 1.15. This multiplication factor is the ratio of the mean salaries for positions designated by survey respondents in the Staff Salary/Turnover Survey as "Direct Care/Program Staff II - Entry or Senior Level" to the mean salary for positions designated as "Direct Care/Program Staff I - Entry or Senior Level".

136 Direct Care Program Staff I

Source: Analysis of the OPS Staff Salary/Turnover Survey. The average annual salary for staff classified as "Direct Care/Program Staff I" was \$15,979, and the average turnover rate for all such positions was 66.42%. For the same period, the turnover rate for all positions listed in this Catalog was slightly less than 40%. The midpoint of the price range, \$19,000, was set at the reported salary level at which turnover, on average, matched the current average for all positions at 40%. The survey also disclosed a standard deviation for all direct care/program staff I salaries of approximately \$3,000. This figure was used to construct a range around the midpoint.

137 Program Secretarial, Clerical Staff

Source: The United States Bureau of Labor Statistics: Occupational Compensation: Pay and Benefits Boston, Massachusetts, Metropolitan Area, April 1991.

138 Program Housekeeping, Maintenance, Groundskeeper

Source: The United States Bureau of Labor Statistics: Occupational Compensation: Pay and Benefits Boston, Massachusetts, Metropolitan Area, April 1991.

202 Direct Care Specialists

Source: All prices are based on the cited Rate Setting Commission regulation except the price range for the Direct Care/Program Staff is based on a survey of Relief Agency fee schedules.

205 Staff Mileage/Travel

Source: United States IRS Code ss. 61 and 62.

410 Agency Administration and Support

Source: The price ranges for this component were developed by a review of Uniform Financial Statements and Independent Auditor's Reports for the year ending 6/30/91, submitted to the Division of Purchased Services. The total expenses as reported on Totals Column, Line 41 of Schedule B - Summary and Administration (Mngt & Gen.) expenses as reported on Administration (Mngt & Gen.) Column, Line 41 of Schedule B - Summary (Line 42 Schedule B) were the two variables in the analysis. The Administrative dollars were divided by the total expenses to determine the administrative percentage. Data was sorted into ten categories of total dollar expenses. A percentage range for each category was then developed using the mean percentage, plus one-half of a standard deviation. The various points were plotted to interpolate a graduated slope of the administrative percentage as compared to total expenses.

REGULATORY AUTHORITY

808 CMR 3.00: St. 1992, c. 133, § 113.

APPENDIX 4:

**General Conditions of the
Master Service Agreement**

**GENERAL CONDITIONS
OF THE
MASTER AGREEMENT FOR SOCIAL SERVICE CONTRACTS
UNDER 808 CMR 2.00**

The General Conditions (Attachment 1 of the Master Agreement) have not been revised for FY'94. The General Conditions approved May 15, 1992 for use beginning July 1, 1992 currently remain in effect.

As a result, the General Conditions are not being forwarded to you at this time. For your convenience, it is recommended that you insert a copy of the May 15, 1992 General Conditions in your Handbook here. Providers who cannot locate a copy (attached to their Master Agreement or in the UFR Auditor's Compliance supplement) may request another copy from their Principal Purchasing Agency. Other interested parties may call the Division of Purchased Services to request a copy.

Should the General Conditions be revised in the future, you will be notified in a subsequent Handbook Update.

APPENDIX 5:

State Agencies which Purchase Social Services

APPENDIX 2:

State Agencies which Purchase Social Services

State Agencies which Purchase Social Services

Chelsea Soldier's Home (CHE)
91 Crest Avenue
Chelsea, MA 02150
Phone: (617) 727-5150

Department of Mental Health (DMH)
25 Staniford Street
Boston, MA 02114
Phone: (617) 727-5500

Department of Corrections (DOC)
100 Cambridge Street, 22nd Floor
Boston, MA 02202
Phone: (617) 727-3301

Department of Public Health (DPH)
150 Tremont Street
Boston, MA 02111
Phone: (617) 727-2700

Department of Youth Services (DYS)
27-43 Wormwood Street
Boston, MA 02210
Phone: (617) 727-7575

Holyoke Soldiers' Home (HLY)
110 Cherry Street
Holyoke, MA 01040
Phone: (413) 532-9475

Mass. Comm. Deaf & Hard of Hearing (MCD)
Suite 600
600 Washington Street
Boston, MA 02111
Phone: (617) 727-5106

Office For Children (OFC)
11th Floor
One Ashburton Place
Boston, MA 02108
Phone: (617) 727-8900

Parole Board (PAR)
Fort Point Place, Suite 300
27-43 Wormwood Street
Boston, MA 022101606
Phone: (617) 727-3271

Department of Public Welfare (WEL)
600 Washington Street
Boston, MA 02111
Phone: (617) 727-8400

Disabled Persons Protection Comm. (DAC)
2 Boylston Street
Boston, MA 02116
Phone: (617) 727-6465

Department of Mental Retardation (DMR)
160 North Washington Street
Boston, MA 02114
Phone: (617) 727-5608

Department of Education (DOE)
Bureau of Institutional Schools
c/o School Office, MA Hospital Sch.
3 Randolph St.
Canton, MA 02021
Phone: (617) 828-2440

Department of Social Services (DSS)
24 Farnsworth Street
Boston, MA 02210
Phone: (617) 727-0900

Executive Office of Elder Affairs (ELD)
Room 517
1 Ashburton Place
Boston, MA 02108
Phone: (617) 727-7750

Mass. Commission for the Blind (MCB)
88 Kingston Street
Boston, MA 02111
Phone: (617) 727-5550

Mass. Rehabilitation Commission (MRC)
27-43 Wormwood Street
Boston, MA 02210
Phone: (617) 727-2172

Office for Refugees & Immigrants (ORI)
3rd Floor
2 Boylston Street
Boston, MA 02116
Phone: (617) 727-7888

Office of Veteran's Services (VET)
100 Cambridge Street, 11th Floor
Boston, MA 02202
Phone: (617) 727-3571

APPENDIX 6:

Statewide Five-Year POS Procurement Plan

ATTACHMENT 2

Statewide Five-Year POS Procurement Plan

KEY

to

Statewide Five-Year POS Procurement Cycle

This list contains all major purchase-of-service (POS) programs that are subject to competitive procurement via the Request for Proposals process described in Chapter II of this User Handbook. The list is presented by RFP Cycle, so that all services to be bid across the state in one year are grouped together.

RFP CYCLE = **Blank:** **To be determined**

A: **FY'93.** The RFPs are usually issued during the previous Spring for contracts which will begin in FY'93, but may be issued any time during FY'93 for late starts in FY'93. Services in RFP Cycle A are then scheduled to be bid again for FY'98.

B: **FY'94.** Equivalent timetable.

C: **FY'95.** "

D: **FY'96.** "

E: **FY'97.** "

AGENCY = **Purchasing Agency:** The state agency responsible for the procurement.

CODE = **Program Code:** A unique four character code that identifies the program or service type by Purchasing Agency. This code is used by Purchasing Agencies on the contract transactions in the state accounting system (MMARS) and by Providers in their Uniform Financial Statements and Independent Auditor's Report (UFR).

SERVICE = **The name of the service or program**

SCOPE = **A category representing the approximate current annual funding for all contracts for the service. This information is presented in terms of ranges as follows:**

- I =** **Less than \$ 500,000**
- II =** **Between \$ 500,000 and \$ 2 million**
- III =** **Between \$ 2 million and \$ 10 million**
- IV =** **Greater than \$ 10 million**

COMMENTS = **Additional detail**

NOTE: This Statewide Five-Year POS Procurement Cycle is **SUBJECT TO CHANGE**. Currently (Cycle A), several procurements have been suspended. DPH is conducting a pilot to procure its services on a geographic rather than a service-specific cycle. Thus, most DPH services in the New Bedford, Springfield and North Shore areas are being procured all together during Cycle A.



STATEWIDE FIVE-YEAR POS PROCUREMENT CYCLE

Listing of Services by RFP Cycle and Agency

<u>AGENCY</u> <u>CODE</u>	<u>SERVICE</u>	<u>SCOPE</u>	<u>COMMENTS</u>
RFP Cycle:			
DPH - Department of Public Health 3435	FAMILY PRACTICE RESIDENCY PROGRAM	I	NEW CYCLE TO BE DETERMINED
DSS - Department of Social Services			
CHCG	BASIC TEEN PRNT CHLD CARE FAMILY	II	CYCLE TO BE DETERMINED
CHCF	BASIC TEEN PRNT CHLD CARE/CNTR BSD	III	CYCLE TO BE DETERMINED
CHCH	FMLY PRSRVTN.TEEN PRNT. CHILD CARE	I	CYCLE TO BE DETERMINED
RFP Cycle: A			
DAC - Disabled Persons Protection Commission 2014	DISABLED ABUSE HOTLINE	I	
DMH- Department of Mental Health			
3065	COMMUNITY & SCHOOL THERAPY	III	
3055	COMMUNITY SUPPORT	IV	
3131	COMP. MEDICAL SERVICES	II	
3132	COMPREHEHENSIVE PSYCH. SERVICES	IV	
3020	COMPREHENSIVE STAFF TRAINING	I	
3054	CONSUMER/FAMILY CARE	II	
3124	DENTISTRY	I	
3130	EVENING AND WEEKEND COVERAGE	I	
3022	MULTI-DISCIPLINARY TRAINING	I	
3050	OUTPATIENT	II	
3064	OUTPATIENT SERVICES(CH)	III	
3112	PEDIATRIC SPECIALIZED INPATIENT	III	
3142	PHARMACY	I	
DMR- Department of Mental Retardation			
3165	DAY AND WORK PREP. SVCS.	IV	
3163	EDUC. & TRNG. SERVICES	IV	
3280	ELDER DAY SVCS.	I	
3150	SPECIALIZED HOME CARE	III	
DOC - Department of Corrections 7405	RESIDENTIAL	III	NEW CODE-WAS 2609
DPH - Department of Public Health			
3436	BREAST CANCER	III	
3329	HIGH RISK INFANT AND FAMILY	II	
3343	HIV/AIDS EDUCATION AND PREV.	II	
3437	PRENATAL/WOMEN'S HEALTH EDUCATION	I	
3429	SHATTUCK-HOMELESS SHELTER	I	
3427	SHATTUCK-MEDICAL SERVICES	II	PLUS CODE 342Q
3375	WOMEN,INFANTS & CHILDREN (WIC) FOOD	III	
DSS - Department of Social Services			
AMS1	ADOPTN MGMNT AND SUPPORT	I	
CHC7	CHILD CARE/BASIC INFANT		
CHC9	CHILD CARE/BASIC INFANT/TODDLER		
CHCA	CHILD CARE/BASIC PRESCHOOL		
CHCJ	CHILD CARE/BASIC PRESCHOOL/SCHL AGE		
CHCB	CHILD CARE/BASIC SCHOOL AGE		

<u>AGENCY</u>	<u>CODE</u>	<u>SERVICE</u>	<u>SCOPE</u>	<u>COMMENTS</u>
DSS - Department of Social Services				
	CHC8	CHILD CARE/BASIC TODDLER		
	CHCE	CHILD CARE/BASIC TODDLER/PRESCHOOL		
	CHC3	CHILD CARE/FAM. PRESERV/INFNT/TODDR		BIDS IN CONCERT WITH CHS-1/CHILD CARE SUPPORT
	CHCK	CHILD CARE/FAM.PRES.PRESCHL/SCHL AG		BIDS IN CONCERT WITH CHS-1/CHILD CARE SUPPORT
	CHC6	CHILD CARE/FAM.PRESERV/FMLY DAY CRE		
	CHC4	CHILD CARE/FAM.PRESERV/PRESCHOOL		BIDS IN COMMENT WITH CHS-1/CHILD CARE SUPPORT
	CHCD	CHILD CARE/FAM.PRESERV/TODDLR/PRSC		BIDS IN CONCERT WITH CHS-1 CHILD CARE SUPPORT
	CHC5	CHILD CARE/FAM.PRESRV/SCHOOL AGE		BIDS IN COMMENT WITH CHS-1/CHILD CARE SUPPORT
	CHC1	CHILD CARE/FAM/PRESERV./INFANT		BIDS IN CONCERT WITH CHS-1/CHILD CARE SUPPORT
	CHC2	CHILD CARE/FAM/PRESERV./TODDLER		BIDS IN CONCERT WITH CHS-1/CHILD CARE SUPPORT
	CRS1	COMM RES. 766/MENTAL RETARDATION		
	CRSG	COMM. COMWRK/SCHOOL		
	CRS2	COMM. RES. 766/EMOTIONALLY DSTRBD.		
	CRS3	COMM. RES. 766/MULTIPLE HANDICAP		
	CRSA	COMM. RES. COMWRK./STAFF SEC DIAG.		
	CRSE	COMM. RES. COMWRK/INTENSIVE TRETMT		
	CRSB	COMM. RES. COMWRK/STAFF SEC.TIMEOUT		
	CRSC	COMM. RES. COMWRK/STAFF SEC.TRTMNT		
	CRSF	COMM. RES. COMWRK/TIME OUT		
	CRSD	COMM. RES. COMWRK/TREATMENT		
	CRS4	COMM. RES. NON-766/CHILDREN		
	CRS5	COMM. RES. NON-766/YOUNG PARENTS		
	CRSH	COMM. RES. RELIEF RESOURCES		
	THS4	COUNSELING IMMIGRANTS		
	SHL3	EMERGENCY SHELTER/PROV.HOME CHILDREN		
	SHL1	EMERGENCY SHELTER/RES CHILDREN		
	REC5	OUT/AFTER SCHL PROGRAM/ADVENT.BASED		
	REC3	OUT/AFTER SCHOOL PROGRAM/DAY SERVIC		
	REC1	OUT/AFTER SCHOOL PROGRAM/DELEG. DAY		
	REC2	OUT/AFTER SCHOOL PROGRAM/DELEG. RES		
	REC4	OUT/AFTER SCHOOL PROGRAMS/RESIDENT.		
	FSS3	PARENT AID		
	PAM1	PARENT AID MANAGEMENT		
	PAS1	PRTNRSHS SRV/PROCTOR/CASE MNGMNT		
	PAS2	PRTNRSHS SRV/PROCTOR/FMLY MNGMNT		
	PAS1	PRTNRSHS.AGCY.SRV/ADPTN./CSE MGMNT	II	
	PAS2	PRTNRSHS.AGCY.SRV/ADPTN./FMLY RSRC.	II	
	THS5	SEXUAL ABUSE PREVENTION		
	FOSB	SPECIALIZED FOSTER CARE		
	THSE	THERAP.SERV./CLINCL CONSULTATION		
	THSA	THERAP.SERV./INTENSIVE FMLY INTERVN		
	THS2	THERAPEUTIC SERVICES ADOLESCENTS		
	THS1	THERAPEUTIC SERVICES FAMILIES		
	THS3	THERAPEUTIC SERVICES TRACKING		
	THSE	THRPTC SRVC/ADPTN/CLNCL CONSULTN.	I	
	TIL2	TRANSITIONAL LIVING ADOLESCENTS		
	TIL6	TRANSITIONAL LIVING VOCATION. SKILL		
DYS - Department of Youth Services				
	2510	DETENTION DIVERSION	I	
	2508	EDUCATION/VOCATIONAL - 1 contract	I	PLUS CODE 2524
	2503	GROUP CARE - Southeast	II	
	2507	OUTREACH TRACKING-4 CONTRACTS	II	

11/16/92

<u>AGENCY</u> <u>CODE</u>	<u>SERVICE</u>	<u>SCOPE</u>	<u>COMMENTS</u>
DYS - Department of Youth Services			
2500	SECURE TREATMENT - 3 contracts	III	
2502	SHELTER CARE-2 CONTRACTS	II	
2517	SUPPORT SERVICES - 2 contracts	I	
MCB - Mass. Commission for the Blind			
2116	AFTER SCHOOL PROGRAM	I	
2101	DIAGNOSTIC AND EVALUATION	I	
2115	MOBILITY	I	
2106	PERSONAL VOC. ADJUSTMENT	I	
MRC - Mass. Rehabilitation Commission			
2205	EMPLOYMENT SERVICES/SUPPORTED EMPL	II	Three year bid-see Cycle D
2200	EVALUATION AND TRAINING	II	
2225	STATEWIDE HEAD INJURY/DAY PROGRAMS	III	
2200	VOC. REHAB.	II	
OFC - Office for Children			
2321	CHILD CARE/DISABLED CHILDREN	I	
ORI - Office for Refugees & Immigrants			
2003	DIRECT SERVICES FOR REFUGEES	II	FEDERAL FUNDS (KEY STATE INITIATIVE)
VET - Executive Office of Veterans Services			
2365	STATE VETERANS OUTREACH CENTERS	II	
WEL - Department of Public Welfare			
2868	MASS JOBS-SKILLS TRAINING	IV	

RFP Cycle: B

DMH- Department of Mental Health			
3113	ADOLESCENT CRISIS	II	
3030	CRISIS INTERVENTION	IV	
3070	CRISIS PLACEMENT	III	
3031	EMERGENCY SHELTER	III	
3052	FORENSIC EVALUATIONS	III	
3061	HOME-BASED TREATMENT & CRISIS(CH)	III	
3099	INPATIENT FORENSIC EVALUATION	II	
3021	PSYCHIATRIC RES. TRAINING	III	
3035	SUPPORTED EMPLOYMENT	II	
DMR- Department of Mental Retardation			
3160	COOPERATIVE APT. I	III	
3157	STAFFED APT. I.	IV	
3158	STAFFED APT. II	III	
3159	SUPERVISED RESIDENCE	II	
DOC - Department of Corrections			
7406	SUBSTANCE ABUSE	II	NEW CODE-WAS 2600
DPH - Department of Public Health			
3423	AIDS RELATED RESEARCH, TRAINING	II	
3306	COMMUN. HEALTH-ADMIN. SERVICES	I	
3309	COMMUN. HEALTH-DENTAL HEALTH	I	
3404	COMMUN. HEALTH-PATIENT SERV.	I	
3358	COMMUN. HEALTH-PRIMARY CARE	I	
3303	COMMUN. HEALTH-PEDIATRIC	II	
3341	COMMUN. HEALTH-PRENATAL	II	
3340	COMMUN. HEALTH-PRENATAL&PEDIATRIC	III	
3383	COMMUNITY GROUP HOME	III	

AGENCY CODE	SERVICE	SCOPE	COMMENTS
DPH - Department of Public Health			
3412	COMPREHNSV DENTAL CARE/FLOURIDATION	II	
3420	EXTENDED DAY EARLY INTERVENTION	I	
3432	IMMUNIZATION	I	
3344	OCCUPATIONAL HEALTH EDUC.	I	
3361	RAPE PREVENTION & VICTIM SERVS.	II	
3330	SPECIAL TRAINING PROJECTS	I	
3417	SUB.ABUSE-ACUPUNCTURE DETOX.	I	
3380	SUB.ABUSE-BOSTON DRUG TREATMENT	III	
3400	SUB.ABUSE-CRIMINAL JUSTICE	II	
3401	SUB.ABUSE-DUIL/14 DAY RESIDENTIAL	I	
3399	SUB.ABUSE-INFORMATION AND REFERRAL	I	
3398	SUB.ABUSE-NON-MEDICAL DETOX.	I	
3391	SUB.ABUSE-NON-TRADITIONAL SERVS.	II	PLUS CODE 339J
3385	SUB.ABUSE-OUTPATIENT COUNSELING	III	PLUS CODE 338F
3397	SUB.ABUSE-OUTPATIENT METHADONE	III	PLUS CODE 339M
3320	SUB.ABUSE-PREV&EDUC. TO ABUSERS	II	PLUS CODE 332D
3376	SUB.ABUSE-PRIMARY PREVENTION	II	PLUS CODE 337E
3389	SUB.ABUSE-PUBLIC INEBRIATE	II	
3386	SUB.ABUSE-RECOVERY HOMES	IV	PLUS CODE 338G
3394	SUB.ABUSE-REGIONAL PREVENTION CENTR	III	PLUS CODE 339K
3395	SUB.ABUSE-RESIDENTIAL DETOX.	III	PLUS CODE 339L
3387	SUB.ABUSE-RESIDENTIAL THERA.COMM.	III	PLUS CODE 338H
3411	SUB.ABUSE-SERV. COMPULSIVE GAMBLERS	I	
3390	SUB.ABUSE-SHORT TERM INTEN. INPAT.	II	PLUS CODE 339R
3392	SUB.ABUSE-SUPPORTIVE HOUSING	II	
3388	SUB.ABUSE-TRANSITIONAL CARE	II	
3393	SUB.ABUSE-VOCATIONAL/EDUCATIONAL	I	
3414	SUB.ABUSE-YOUTH INTERVENTION	III	
3470	SUB.ABUSE-YOUTH RESIDENTIAL	II	
3424	TUBERCULOSIS CLINIC SERVICE	II	PLUS CODE 342P
DSS - Department of Social Services			
CES2	COMP.EMERG.SERV C PRGM/WOMEN @ RISK	I	
CES1	COMP.EMERGENCY SERV C PRGRM/GENERAL	I	
SHL2	EMERG.SHLTR/RESIDENTIAL/WOMEN @ RISK	III	
SHL4	EMERG.SHLTR/SAFE HOME/WOMEN @ RISK	I	
HOT2	HOTLINE GENERAL	I	
HOT1	HOTLINE PROTECTIVE	II	
HOT3	HOTLINE-WOMEN AT RISK	I	
THS6	THERAPEUTIC SERVICES-WOMEN AT RISK	I	
TIL4	TRANSITIONAL LIVNG-WOMEN AT RISK	II	
DYS - Department of Youth Services			
2507	OUTREACH TRACKING - 11 contracts	II	
2505	TRANSITIONAL MGMT PROG -4 contracts	III	PLUS CODE 2526
ELD - Executive Office of Elder Affairs			
8007	ELDER ABUSE HOTLINE	I	
8033	ELDER AT RISK		STAGGERED BETWEEN CYCLES B & C
MCB - Mass. Commission for the Blind			
2106	PERSONAL VOC. ADJUSTMENT/DAY	I	
2136	RESIDENTIAL/DAY	I	STAGGERED OVER CYCLES B, D, AND
MRC - Mass. Rehabilitation Commission			
2205	EMPLOYMENT SERVICES/SUPPORTED WORK	II	
2220	HOME CARE ASSISTANCE	III	
2215	INDEP.LIVING/T22 RESIDENTIAL	II	
2225	STATEWIDE HEAD INJURY/RESIDENTIAL	II	

AGENCY		SCOPE	COMMENTS
CODE	SERVICE		
ORI - Office for Refugees & Immigrants			
2004	COMMUNITY DEVELOPMENT	I	FEDERAL FUNDS
WEL - Department of Public Welfare			
2841	FOOD STAMP OUTREACH	I	
2867	HOMELESS SVCS. - HEALTH CARE	II	
2839	HOMELESS SVCS. - INDIVIDUALS	IV	
RFP Cycle: C			
DMH- Department of Mental Health			
3115	ADOLESCENT SPECIALIZED(CH)	II	
3075	FLEXIBLE SUPPORT RESIDENTIAL	II	
3043	LOW INTENSITY RESIDENTIAL	III	
3072	RESIDENTIAL TREATMENT I	IV	
3045	SUPPORTED HOUSING	II	
3071	THERAPEUTIC FAMILY CARE	II	
DMR- Department of Mental Retardation			
3152	COMMUNITY RESIDENCE	IV	
3156	LIMITED GROUP RESIDENCE	III	
3151	RESIDENTIAL FACILITY	III	
3155	SATELLITE RESIDENCE	IV	
DOC - Department of Corrections			
7408	BOOT CAMP	II	
7407	MEDICAL SERVICES	IV	STAY ON 3 YR CYCLE-NEW CODE- INCLUDES OLD CODE
DOE - Department of Education			
5098	SPECIAL ED. FOR CHILD. IN STATE FAC	III	
DPH - Department of Public Health			
3307	ADOL. PREGNANT COMPREHENSIVE PROG.	I	PLUS CODE 330A
3419	COMBINED ADOL. PROGRAMS(CAH&PPA)	II	
3428	COMMUNITY HIV EDU/COUNSELING/SUPPT.	II	
3317	EARLY INTERVENTION	III	
3319	FAMILY PLANNING SERVICES	II	
3425	PERINATAL COMM. INITIATIVES PROGR.	I	
3354	PREGNANT & PARENTING ADOL. PROGRAM	II	
3422	SCHOOL BASED HEALTH CENTERS	I	
3438	TEEN PREGNANCY PREVENTION	II	transferred from OFC to DPH in FY93
DSS - Department of Social Services			
PAS1	PARTNERSHIP SERVICE/CASE MANAGEMENT	III	
PAS2	PARTNERSHIP SERVICE/FAMILY RESOURCE	II	
TIL5	TRANSITIONAL LIVING/HOMELESS	II	
DYS - Department of Youth Services			
2508	EDUCATION/VOCATIONAL - 4 contracts	II	PLUS CODE 2524
2503	GROUP CARE - 9 Contracts	III	
2517	SUPPORT SERVICES - 6 contracts	I	
2516	TRANS. INDEPENDENT LIVING	I	
ELD - Executive Office of Elder Affairs			
8025	COORDINATION OF CARE	III	
8033	ELDER AT RISK	I	STAGGERED BETWEEN CYCLES B & C
8014	HOME CARE CASE MANAGEMENT & ADMIN.	IV	
8006	HOME CARE PURCHASED SERVICES	IV	
8006	HOME CARE/MANAGED CARE IN HOUSING	III	
8009	PROTECTIVE SERVICES	I	

11/16/92

<u>AGENCY</u>	<u>CODE</u>	<u>SERVICE</u>	<u>SCOPE</u>	<u>COMMENTS</u>
MCB - Mass. Commission for the Blind	2144	RADIO READING SERVICE	I	PLUS CODE 2143
MCD - Mass. Commission for the Deaf	2451	COMMUNICATION ACCESS SERVICES	II	
	2452	DISABILITY ASSISTIVE TECH. SERVICES	I	FED. FUNDED
MRC - Mass. Rehabilitation Commission	2205	EMPLOYMENT SERVICES/EXTENDED EMPL	III	
	2215	INDEP.LIVING/T22 NON-RESIDENTIAL	I	
	2225	STATEWIDE HEAD INJURY/RESIDENTIAL	I	
WEL - Department of Public Welfare	2880	HOMELESS - HOUSING SEARCH PROGRAM	III	Plus Code 2903

RFP Cycle: D

DMH - Department of Mental Health	3092	ACUTE INPATIENT	I	
	3114	ADOLESCENT ACUTE INPATIENT	II	
	3041	HIGH INTENSITY RESIDENTIAL	III	
	3080	INTENSIVE RESIDENTIAL	II	
	3042	MODERATE INTENSITY RESIDENTIAL	IV	
	3073	RESIDENTIAL TREATMENT II	III	
	3074	RESIDENTIAL TREATMENT III	III	
	3044	SATELLITE RESIDENTIAL	IV	
	3040	SPECIALIZED RESIDENTIAL	II	
DMR - Department of Mental Retardation	3212	AMBULANCE	I	
	3164	DAY & HAB SVCS.	II	
	3207	DENTISTRY	I	
	3167	EMPLOYMENT & TRAINING SVCS.	IV	
	3176	FAMILY SUPPORT SVCS.	III	
	3279	GUARDIANSHIP	I	
	3202	MEDICAL SERVICES	IV	
	3180	NON-FACIL. BASED RESP.	III	
	3211	PHARMACY	I	
	3208	PSYCHIATRIC SERVICES	I	
	3182	RESPIRE FACILITY (TEMP. RESID.)	III	
	3247	SOCIAL SVCS. DIRECT CARE	I	
	3168	SUPPORTED EMPLOYMENT	IV	
	3253	VISUALLY IMPAIRED SVCS.	I	
DPH - Department of Public Health	3300	AIDS CARE-AT HOME HEALTH HOSPICE	II	
	3416	AIDS/HIV SUPPORT SERV. FOR RESIDENT	I	
	3381	CHRONIC DISEASE PREVENTION	I	
	3408	FAMILY PLANNING HIV/AIDS COUNSELING	II	
	3321	GROWTH AND NUTRITION CLINICS	I	
	3322	HIV EARLY SCREENING & TREATMENT	II	
	3403	HIV/AIDS PREV.& EDUC. - MINORITY	II	
	3366	RISK INFORMATION SERVICES	I	
	3410	SEXUALLY TRANS. DISEASE CLINICS	II	PLUS CODE 341N
DSS - Department of Social Services	THS7	COMMUNITY COUNSELING/YOUNG PARENTS	II	
	THS8	SCHOOL BASED COUNSELING/YOUNG PRNTS	I	
	TIL3	TRANSITIONAL LIVING/YOUNG PARENTS	II	

<u>AGENCY</u>	<u>CODE</u>	<u>SERVICE</u>	<u>SCOPE</u>	<u>COMMENTS</u>
DYS - Department of Youth Services				
	2515	DIAGNOSTIC	I	
	2504	FOSTER CARE	II	PLUS CODE 2525
	2513	MEDICAL SERVICES	I	PLUS CODE 2523
	2502	SHELTER CARE - 4 contracts	III	
	2509	TRACKING PLUS	II	
MCB - Mass. Commission for the Blind				
	2136	RESIDENTIAL/ DAY	II	
MRC - Mass. Rehabilitation Commission				
	2205	EMPLOYMENT SERVICES/SUPPORTED EMPL.	II	
	2215	INDEP.LIVING/SUP. LIVING	I	
	2225	STATEWIDE HEAD INJURY/SUP.EMPLOYMNT	I	
OFC - Office for Children				
	2320	CHILD CARE RESOURCE AND REFERRAL	II	
PAR - Parol Board				
	7010	COUNSELING SERVICES	I	
	7010	COUNSELING SERVICES	I	
WEL - Department of Public Welfare				
	2862	HOMELESS SERVICES - FAMILIES	IV	Plus Code 2901
	2865	HOMELESS SVCS - YOUNG MOTHERS/PREG.	II	Plus Code 2904
	2863	HOMELESS SVCS. - SUBSTANCE ABUSE	III	Plus Code 2902
	2838	HOMELESS SVCS. - EAEDC/MLAC	II	

RFP Cycle: E

DMH- Department of Mental Health				
	3034	COMMUNITY SUPPORT CLUBHOUSE	IV	
	3062	DAY TREATMENT I	II	
	3063	DAY TREATMENT II	II	
	3053	DROP-IN CENTER/SOCIAL CLUB	II	
	3066	FLEXIBLE SUPPORT NON-RESIDENTIAL	II	
	3056	INDIVIDUAL SUPPORT	II	
	3051	PSYCHIATRIC DAY TREATMENT	II	
	3033	SKILLS TRAINING	III	
DMR- Department of Mental Retardation				
	3170	CLINICAL TEAM	III	
	3191	CORE NURSING-RECRUITMENT	I	
	3177	INDIVIDUAL SUPPORT	III	
	3181	PERSONAL CARE ATTENDENT SVCS.	I	
	3178	TRAINING	I	
	3196	TRANSPORTATION	IV	
DPH - Department of Public Health				
	3402	AIDS CLIENT SERVICES	III	
	3335	CHILDHOOD LEAD POISONING PREVENTION	II	
	3433	DISABILITY PREVENTION	I	
	3430	HIV CARE CONSORTIA(RYAN WHITE ACT)	II	
	3334	HIV COUNSELING, TESTING AND SUPPORT	II	
	3431	PEDIATRIC AIDS	I	Three Year Fed Grant Starting FY92
DYS - Department of Youth Services				
	2508	EDUCATION/VOCATIONAL - 1 contract	I	PLUS CODE 2524
	2503	GROUP CARE - 3 contracts	II	
	2501	SECURE DETENTION	III	

<u>AGENCY</u>		<u>SCOPE</u>	<u>COMMENTS</u>
<u>CODE</u>	<u>SERVICE</u>		
DYS - Department of Youth Services			
2500	SECURE TREATMENT - 4 contracts	III	
2517	SUPPORT SERVICES - 2 contracts	I	
2505	TRANSITIONAL MGMT PROG - 1 contract	II	PLUS CODE 2526
MCB - Mass. Commission for the Blind			
2136	RESIDENTIAL/ DAY	II	
MRC - Mass. Rehabilitation Commission			
2215	INDEP LIVING/I.L. CENTERS	II	
WEL - Department of Public Welfare			
2834	ASSISTED PLACEMENT	III	
2890	HOMELESS-TRANSITONAL HOUSING	III	
2886	MASS JOBS-CHILD CARE	III	
2833	MASS JOBS-YOUNG PARENTS PROGRAM	III	

APPENDIX 7:

Goods & Services Bulletin Information

- a) Subscription Order Form**
- b) GS-7 notice publication form
(for Purchasing Agencies)**

THE COMMONWEALTH OF MASSACHUSETTS
Office of the Secretary of State
State Bookstore

Michael Joseph Connolly, Secretary

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AGENCY:

CONTACT:

DESCRIPTION OF SERVICE:

PHONE:

LOCATION OF SERVICE:

FUNDING INFORMATION:

LETTERS OF INTENT DUE:

RFP RELEASE DATE:

PICK UP RFP AT:

DEADLINE FOR PROPOSAL SUBMISSION:

ADDITIONAL INFORMATION:

AGENCY:

CONTACT:

DESCRIPTION OF SERVICE:

PHONE:

LOCATION OF SERVICE:

FUNDING INFORMATION:

LETTERS OF INTENT DUE:

RFP RELEASE DATE:

PICK UP RFP AT:

DEADLINE FOR PROPOSAL SUBMISSION:

ADDITIONAL INFORMATION:

APPENDIX 8:

Supplemental Financial Reporting Information

APPENDIX B:

Supplemental Financial Reporting Information

APPENDIX 8: SUPPLEMENTAL FINANCIAL REPORTING INFORMATION

A. HIGHLIGHTS OF RELEVANT FEDERAL OMB CIRCULAR STANDARDS

1. Office of Management and Budget Circular No. A-110

Standards for Financial Management Systems (Attachment F of the Circular)

Paragraph 2 a: Requires accurate, current and complete disclosure of the financial results of each federally sponsored project or program in accordance with Attachment G. (See below.)

Paragraph 2 b: Records must adequately identify the source and application of funds from federally sponsored activities.

Paragraph 2 c: Requires effective control over and accountability for all funds, property and other assets. Recipients and subrecipients must adequately safeguard all such assets and assure that they are used solely for authorized purposes.

Paragraph 2 d: Mandates a comparison of actual outlays (expenditures) with budgeted amounts for each grant or other agreement. Whenever appropriate or required by federal agency, financial information should be related to performance and unit cost data.

Paragraph 2 e: Procedures to minimize the time elapsed between the transfer of funds from the U.S. Treasury and disbursements by the recipient or subrecipient.

Paragraph 2 f: Procedures for determining the reasonableness, allowability, and allocability of costs in accordance with appropriate federal cost principles (OMB Circular A-122).

Paragraph 2 g: Accounting records must be supported by source documentation.

Financial Reporting Requirements (Attachment G of the Circular)

This provision requires recipients and subrecipients to have a system for summarizing expenditures made and unexpended federal funds for each award or program for recipient federal financial reporting purposes.

Monitoring and Reporting Program Performance (Attachment H of the Circular)

Recipients and subrecipients are required to have procedures for monitoring the performance under grants and other agreements and, where appropriate, to ensure that time schedules are being met, projected work units by time periods are being accomplished, and other performance goals are being achieved. Recipients must submit a performance report for each agreement that briefly presents the following information for each program:

- a. A comparison of actual accomplishments with the goals established for the period, the findings of the investigator, or both. If the output of programs can be readily quantified, such data should be related to cost data for computation of unit cost.

Appendix 8 - 2

- b. Reasons why established goals were not met.
- c. Other pertinent information, including, when appropriate, analysis and explanation of cost overruns or high unit rates.

2. Office of Management and Budget Circular No. A-122

This Circular establishes principles for determining costs of grants, contracts and other agreements with nonprofit organizations that either receive federal funds directly from the federal government or as subrecipients. It does not apply to colleges and universities which are covered by OMB Circular A-21. Major provisions include:

Factors affecting allowability of costs.

To be allowable under an award, costs must meet the following general criteria:

- a. Be reasonable for the performance of the award and be allocable thereto under these principles.
- b. Conform to any limitations or exclusions set forth in these principles or in the award as to types or amount of cost items.
- c. Be consistent with policies and procedures that apply uniformly to both federally financed and other activities of the organization (Commonwealth Contracts).
- d. Be accorded consistent treatment.
- e. Be determined in accordance with Generally Accepted Accounting Principles.
- f. Not be included as a cost or used to meet sharing or matching requirements of any other federally financed program in either the current or a prior period.
- g. Be adequately documented.

Reasonable costs.

A cost is reasonable if, in its nature or amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. The question of the reasonableness of specific costs must be scrutinized with particular care in connection with the organizations or separate divisions thereof which receive the preponderance of their support from awards made by federal agencies. In determining the reasonableness of a given cost, consideration shall be given to:

- a. Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the organization or the performance of the award.
- b. The restraints or requirements imposed by such factors as generally accepted sound business practices, arms length bargaining, federal and state laws and regulations, terms and conditions of award.
- c. Whether the individuals concerned acted with prudence in the circumstances, considering their responsibilities to the organization, its members, employees, clients, the public at large, and the government.

- d. Significant deviations from the established practices of the organization which may unjustifiably increase the award costs.

B. UNIFORM FINANCIAL REPORTING STANDARDS

1. Reporting Administration in the UFR

There has been a lot of confusion concerning what the definition of administration includes. A certain degree of misunderstanding also exists as to how administration should be reported on the Provider's financial statements (which are the Uniform Financial Statements and Independent Auditor's Report, or UFR). In addition, many mistake the reporting of administration on the financial statements with administration expense reimbursements and the methods used to determine the amounts of the reimbursements.

Administration (management and general) costs include expenditures for the overall direction of the organization, general record keeping, business management, budgeting, general board activities, and related purposes. Expenses associated with the "**overall direction**" of the agency will usually include the salaries and expenses of the chief officer of the organization and his or her staff. If these individuals spend a portion of their time directly supervising fund-raising or program service activities, such salaries and expenses are **not** administration and should be prorated among those functions.

Expenses incurred in keeping a charitable organization's name before the public are related to the overall direction of the agency and are not properly classified as program services or as fund-raising expenses and should be classified as administration expenses. The cost of disseminating information to inform the public of the organization's "stewardship" of contributed funds, the publication of appointments, the annual report, etc., are also related to the overall direction of the agency and should likewise be classified as administration expenses.

The guidance provided above has been excerpted from the AICPA Industry Audit Guide - "Audits of Voluntary Health and Welfare Organizations."

Generally Accepted Accounting Principles require Administration, Fund-raising and Program Services to be reported separately on the financial statements. These principles also specifically prohibit Administration and Fund-raising expenses from being charged or allocated to Program Services. Accordingly, the expenses associated with these fund and program activities are reported separately on the UFR.

Reporting administration separately on the financial statements does not provide users of the UFR, such as federal, state and provider managers, with an understanding of the benefit each program derives from administration. To address this issue, the UFR furnishes report users with a general understanding of the benefit derived by program services from Administrative expenses by having the Provider charge and allocate all Administrative expenses to each program on line 42 of the unaudited Supplemental Expense Schedule B.

Administration expenses are allocated to each program on line 42 of the unaudited Supplemental Expense Schedule B by using the same experience levels and trends that were established for allocation of direct costs or similar program expenses which pertain to various functions. This guidance has also been promulgated by the federal government as the Direct Allocation Method of OMB Circular A-122 for charging indirect costs to programs. These indirect federal costs, which are classified as general administration and general expenses (Administration), as defined in paragraph D 4 of the Direct Allocation Method of OMB Circular A-122, must also be prorated or allocated on line 42 of Expense Schedule B.

2. Reporting Costs Which Pertain to Various Functions in the UFR

Many organizations incur costs that apply to more than one functional purpose. In such cases, it may be necessary to allocate these costs among functions on the financial statements. Examples include salaries of those who perform more than one type of service, rental of a building used for various program services, and certain expenses that are generally assumed to be associated with Administration (the portion of salaries and expenses that are related to the direct supervision of a program or fund-raising activity rather than the overall direction of the organization), and fund-raising activities that can be specifically identified with another function.

Where employees perform duties that relate to more than one function, the salaries of such individuals, as well as all other expenses which pertain to more than one function, should be allocated to the separate functional categories, based on procedures that determine, as accurately as possible, the portion of the cost related to each function. In some cases, and particularly where most of an individual's time is spent on one function, estimates of the time spent on each function may be appropriate. However, in many cases the maintenance of employee time reports **(required by the General Conditions of the Master Agreement)** will be practical and will result in a more accurate determination of the costs attributed to each function. When the time that employees spend on various functions does not vary significantly during each accounting period, the preparation of time reports for selected test periods during the year might be sufficient to determine the allocation of such costs to the related functions. In some cases the degree of usage of these indirect costs can not be readily and specifically identified with each function.

A reasonable allocation of an organization's functional expenditures may be made on a variety of bases. The following allocation procedures are consistent with generally accepted accounting principles and have been derived from the AICPA Industry Audit Guide - "Audits of Voluntary Health and Welfare Organizations." These procedures are illustrative only, but the use of these or similar procedures will ordinarily result in a reasonable allocation of an organization's multiple functional expenditures:

1. A study of the organization's activities may be made at the start of each fiscal year to determine the best practicable allocation methods. This study should include an evaluation of the preceding year's time records or activity reports of key personnel, the use of space, the consumption of supplies and postage, etc. The results of this study

should be reviewed periodically and revised where necessary to reflect significant changes in the nature or level of the organization's current activities.

2. Daily time and expense records may be kept by all employees who spend time on more than one function and may be used as a basis for allocating salaries and related costs. These records should indicate the nature of the activities in which the employee is involved.
3. Automobile and travel costs may be allocated on the basis of the expense or time reports of the employees involved.
4. Telephone expense may be allocated on the basis of use of the extensions, generally following the charge for the salary of the employee using the telephone, after making direct charges for toll calls or other service attributable to specific functions.
5. Stationery, supplies, and postage costs may be allocated based on a study of their use.
6. Occupancy costs may be allocated on the basis of a factor determined from a study of the function of the personnel using the space involved.
7. The depreciation and rental of equipment may be allocated based on asset usage.

C. AUDITOR'S REPORT ON FINANCIAL STATEMENTS

Financial statements for not-for-profit health and welfare organizations must be prepared in accordance with the Industry Audit Guide issued by the American Institute of Certified Public Accountants entitled "Audits of Voluntary Health and Welfare Organizations." All Certified Public Accountants licensed in Massachusetts are required to adhere to this Guide.

The Auditor's Report on the Financial Statements must contain the following components:

- * Auditor's Report (opinion)
- * Balance Sheet
- * Statement of Support, Revenue, and Expense and Change in Fund Balance
- * Statement of Functional Expenses
- * Notes to Financial Statements

The auditor can issue one of the following four types of opinions in a UFR:

- * an unqualified opinion;
- * a qualified opinion;
- * a disclaimer of opinion; or
- * an adverse opinion

Unqualified Opinion

When financial statements reflect the actual financial operations of a provider, without qualification, an unqualified opinion is issued. The Auditor's unqualified report consists of two sections: A statement describing the scope of the audit (first paragraph), and a statement indicating the opinion (closing paragraph). For example:

Scope paragraph: "We have examined the balance sheet of XYZ Health and Welfare Services as of December 31, 19XX, and the related statements of support, revenue, and expenses and changes in fund balances and of functional expenditures for the year then ended. Our examination was made in accordance with generally accepted auditing standards, and accordingly, included such tests of the accounting records and such other auditing."

Opinion paragraph: "In our opinion, the aforementioned financial statements present fairly the financial position of the XYZ Health and Welfare Service at December 31, 19XX, and the results of its operations and changes in funding balances for the year then ended, in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year."

Qualified Opinion

A qualified opinion may be issued for the following reasons:

- * Financial statements do not disclose the functional classification of expenditures (Statement of Functional Expenses omitted).
- * No recording of the value of donated assets.
- * A departure from Generally Accepted Accounting Principles (GAAP).
- * Material uncertainties affecting the financial records.

A qualified opinion consists of three sections: 1) a statement describing the scope of the audit (first paragraph), 2) a middle paragraph containing the reason for qualifying the opinion, and 3) the opinion paragraph. The opinion paragraph will always contain the words "subject to" and "except for" in a qualified opinion. For example:

(Scope Paragraph - See Above)

Reason for qualifying opinion paragraph: "During 19XX, the organization incurred costs of approximately \$5,000 in connection with its fund-raising efforts. Such amount is not set forth separately in the accompanying financial statements as required by generally accepted accounting principles, but is included in the amount shown for management and general expenses."

Opinion paragraph: "In our opinion, except for the omission of the information mentioned above, the accompanying financial statements present fairly the financial position of the XYZ Health and Welfare Service at December 31, 19XX, and the results of its operations and changes in fund balances for the year then ended, in conformity with Generally Accepted Accounting Principles applied on a basis consistent with that of the preceding year."

Disclaimer of Opinion

When the auditor is unable to obtain sufficient competent evidential matter or has a significant scope limitation, a disclaimer of opinion is issued. When disclaiming an opinion, the report consists of a scope paragraph and a disclaimer paragraph. The reasons for a disclaimer of opinion may be stated either in a separate paragraph of the report or included in the scope paragraph. In either case, all reasons for disclaiming must be disclosed. For example:

(Scope Paragraph - See Above)

Reason for disclaimer paragraph: "The organization did not take a physical inventory of merchandise, stated at \$? in the accompanying financial statements as of December 31, 19XX, and at \$? as of December 31, 19XX. Further evidence supporting the cost of property and equipment acquired prior to December 31, 19XX, is no longer available. The corporation records do not permit the application of adequate alternative procedures regarding the inventories or the cost of property and equipment."

Disclaimer paragraph: "Since the company did not take physical inventories and was unable to apply adequate alternative procedures regarding inventories and the cost of property and equipment, as noted in the preceding paragraph, the scope of our work was not sufficient to enable us to express, and we do not express an opinion on the financial statements referred on the preceding page and above."

Adverse Opinion

When financial statements do not present correctly the financial position of the provider, an adverse opinion is issued. This consists of a scope paragraph, a middle paragraph, and an opinion paragraph. For example:

(Scope Paragraph - See Above)

Middle paragraph: "XYZ Health and Welfare Service follows the practice of (brief description of practice which has resulted in the following effects on the financial statements; brief description of the effect of the practice). This practice is at variance with Generally Accepted Accounting Principles."

Opinion paragraph: "Because of the effects of the practice discussed in the preceding paragraph, in our opinion the aforementioned financial statements do not present fairly the financial position of XYZ Health and Welfare Service at December 31, 19XX, or the results of its operations for the year then ended, in conformity with generally accepted accounting principles."

APPENDIX 9:

Rate Setting Commission Regulations

for certain POS program rates

APPENDIX 2:

Rate Setting Commission Regulations

for certain FOS program rates

RATE SETTING COMMISSION

BUREAU OF AMBULATORY CARE

<u>SERVICE</u>	<u>REGULATION</u>
Abortion and Sterilization	114.3 CMR 13.00
Adult Day Health	114.3 CMR 10.00
Ambulance	114.3 CMR 27.00
Chiropractors	114.3 CMR 28.00
Community Health Centers	114.3 CMR 4.00
Day Habilitation	114.3 CMR 8.00
Dental Services	114.3 CMR 14.00
Dialysis	114.3 CMR 37.00
Durable Medical Equipment	114.3 CMR 22.00
Early Intervention	114.5 CMR 7.00
Family Planning	114.3 CMR 12.00
Freestanding Diagnostic/Surgical Ctrs	114.3 CMR 44.00
Hearing Aids	114.3 CMR 23.00
Home Health Agencies	114.3 CMR 3.00
Hospices Services	114.3 CMR 43.00
Independent Living	114.3 CMR 9.00
Laboratory	114.3 CMR 20.00
Medical Services	114.3 CMR 17.00
Mental Health	114.3 CMR 6.00
Orthotics/Prosthetics	114.3 CMR 34.00
Pharmacy	114.3 CMR 31.00
Podiatry	114.3 CMR 26.00
Private Duty Nursing	114.3 CMR 24.00
Psychiatric Day Treatment	114.3 CMR 7.00
Psychology	114.3 CMR 29.00
Radiology	114.3 CMR 18.00
Restorative Services	114.3 CMR 39.00
Audiological Services	
Rehabilitation Clinic Services	
Occupational Therapy	
Physical Therapy	
Speech Therapy	
Substance Abuse	114.5 CMR 6.00
Surgery	114.3 CMR 16.00
Team Evaluations	114.3 CMR 30.00
Temporary Nursing Services	114.3 CMR 45.00
Tuberculosis	114.3 CMR 8.00
Vision Care	114.3 CMR 15.00

APPENDIX 10:

**POS Contract Classifications
(Object Codes)**

from

**Office of the Comptroller's
"Expenditure Classification Handbook"**

APPENDIX 10

POS Contract Classifications
(Object Codes)

from

Office of the Comptroller's
"Expenditure Classification Handbook"

SUBSIDIARY MM. PURCHASED CLIENT HUMAN SERVICES AND PROGRAMS, AND NON-HUMAN SERVICES PROGRAMS

This subsidiary includes expenditures for purchased services including but not limited to: social, special educational, health, medical, mental health, retardation, rehabilitative, habilitative, and elder services to clients, residents, students, etc. provided by individuals, organizations or state departments; also includes client transportation. Please refer to the Purchase of Service System User Handbook for additional information. Included are expenditures for social services and medical care to inmates, patients and clients rendered by individuals other than employees of the procuring department. Also included are certain purchased services, such as vendor staff training, or information and referral programs, which may not involve direct client care but instead, support or supplement direct client services. Also included are programs which facilitate the creation and retention of affordable housing, (see M10). This subsidiary also includes expenditures for both human service and non-human service related programs funded through Cooperative Funding Agreements/Grants including state grants, federal subgrants and other financial assistance, (see M05 and M10). For benefit payments directly to or on behalf of recipients, see subsidiary RR. An important distinction exists between object codes because of tax reporting requirements for individuals and corporations providing medical and health care related services. A Master Grant Agreement (MGA) is available for payments to cities, towns, municipalities and local governmental entities. For payments or financial assistance "specifically earmarked" or legislatively mandated for cities, towns, municipalities or local governmental entities, see P01 and P07.

PERSONAL SERVICES: (Services Rendered by Individuals)

- M01** **Individuals - Providing Non-Medical or Non-Health Care Related Services** - Non-medical or non-health care related services rendered by individuals who provide client services either directly or on behalf of a client. Includes non-credentialed care providers such as: peer counselors and respite workers as well as individuals belonging to a recognized human service profession such as: social workers, teachers, interpreters or translators. This may include services rendered by an individual with payment to a corporate entity.
- MM1** **Individuals - Providing Medical or Health Care Related Services** - Services rendered by individuals, who provide medical or health care related services to clients. Includes physicians, nurses, psychiatrists, and other health care professionals. This may include services rendered by an individual with payment to a corporate entity.
- M02** **Reimbursements** - Reimbursement to clients or to individuals for expenses incurred on behalf of clients. Examples include foster family stipends, adoption subsidies, guardians ad litem, volunteers, and reimbursement for expenses incurred while receiving services.

PROGRAM SERVICES: (Programs or Services Rendered by Organizations)

- M03** **Contracts - Non-Medical** - Payments pursuant to agreements to purchase specified programs (excluding medical and health care, see MM3) on behalf of specifically identified clients or a specific target group. Limited to services with no health care components, such as payments to "Chapter 766" approved private schools rendering special educational services. Also includes contracts for planned emergency non-medical services. For unplanned emergency services, see M08.
- MM3** **Contracts - Medical or Health Care Related Services** - Payments pursuant to agreements to purchase programs with medical or health care related components on behalf of specifically identified clients or a specific target group. Also includes contracts for planned emergency medical or health care related services. For unplanned emergency services, see M08.
- M04** **Contracts - Client Transportation** - Payments pursuant to agreements to purchase client transportation services for or on behalf of specifically identified clients.

SUBSIDIARY MM. PURCHASED CLIENT HUMAN SERVICES AND PROGRAMS, AND NON-HUMAN SERVICES PROGRAMS

- M05 Human Service - Related Cooperative Funding Agreements/Grants** - Payments pursuant to agreements providing financial assistance to support the availability of human services or human service programs to the general public or a segment of the general public or to support the operations of community service organizations. These agreements are the result of an application process or competitive procurement. For agreements for specified services on behalf of specifically identified clients or a specific target group refer to M03 or MM3. For non-human service programs, including state and federal subgrants, see M10. For payments or financial assistance "specifically earmarked" or legislatively mandated for cities, towns, municipalities or local governmental entities, see P01 and P07.
- M06 Formula Procurements** - Payments for social service programs for which the recipient organization or the award obligation amount is not subject to the spending department's discretion, as in the case of an appropriation earmarked for specifically identified organizations.
- M07 Tuition and Educational Fees** - Tuition, dormitory, board, incidental fees, and educational supplies paid to enroll clients in an established curriculum of elementary, secondary, post secondary, graduate, or vocational instruction at an accredited educational institution. Excludes payments to "Chapter 766" approved private schools rendering special educational services, see M03.
- M08 Emergency Procurements** - Payments for non-planned emergency services (human services). There are limitations on duration and cost of services beyond which a waiver must be requested.
- M09 Reserved**
- M10 Non-Human Service - Cooperative Funding Agreements/Grants** - Payments pursuant to agreements providing financial assistance to support non-human service related programs on behalf of the general public or a segment of the general public. These agreements are the result of an application process or competitive procurement. Includes Housing Grants. For human service related cooperative funding agreement/grants, see M05. For payments or financial assistance "specifically earmarked", or legislatively mandated for cities, towns, municipalities or local governmental entities, see P01 and P07.
- M190 Operating Transfer** - Purchased Client Human Services and Programs, and Non-Human Services Programs.
- M198 Reimbursement for Travel and Other Expenses for Individuals Paid from M01 or MM1.**
- M199 Late Penalty Interest** - Pursuant to 815 CMR 4.00 and Massachusetts General Laws c. 7A, §5A; Massachusetts General Laws c. 29, §§20C and 29C.

APPENDIX 11:

POS Program Code Classifications

PROGRAM CODE CLASSIFICATION

CATEGORY

CHLD:	Child 0-12 years	ADOL:	Adolescent, 13-22 yrs.
ELDR:	Elders	MIXD:	Mixed Age Groups
FAML:	Entire Family	PUBL:	General Public
ADLT:	Adult Only		

CLASS

DAY

DY10 - Support/Custodial Care
DY20 - Educational
DY30 - Habilitative/
Rehabilitative
DY40 - Social
DY99 - Other Day

RESIDENTIAL

RS10 - Temporary Housing
RS20 - Institutional
RS30 - Community-Based
RS40 - Home-Based
RS50 - Residential and
Educational
RS99 - Other Residential

CASE WORK, COUNSELING, CASE MGMT.

CS10 - Emergency
CS20 - Diagnostic/Evaluation
CS30 - Treatment
CS40 - Monitoring/Aftercare
CS50 - Comprehensive Outpatient/
Case Management
CS99 - Other Case Work

VOCATIONAL

VC10 - Training/Placement
VC20 - Workshop
VC30 - Supported Employment
VC99 - Other Vocational

SATELLITE

ST10 - Homemaker/Home Health
ST20 - Chore/Parent Aide
ST30 - Outreach
ST99 - Other Satellite

HEALTH

HL10 - Inpatient
HL20 - Outpatient
HL30 - Satellite
(Offsite Hlth Prgms)
HL40 - Day Health Care
HL50 - Mixed (Combination
Health Services)
HL99 - Other Health

SUPPORT SERVICES

SS10 - Information/Referral
SS20 - Public Education/Outreach
SS30 - Transportation
SS99 - Other Support

OTHER

OTHR - Other programs
unable to be
classified elsewhere

APPENDIX 12:

Resource List

APPENDIX 12:

Resource List

APPENDIX 12: PURCHASE-OF-SERVICE SYSTEM RESOURCE LIST

TECHNICAL ASSISTANCE FOR NONPROFIT ORGANIZATIONS

Associated Grantmakers of Massachusetts, Inc. (AGM)

294 Washington St., Suite 840

Boston, MA 02108

(617) 426-2606

AGM provides short-term, low interest loans to nonprofit organizations experiencing emergencies (such as cash flow problems due to reimbursement delays). Its most popular program is a grants research library that is free to anyone. The library holds information on foundation and corporate grantmaking, fund-raising, and nonprofit management; orientations for first-time users are available by appointment.

Community Training and Assistance Center

30 Winter St., 7th Floor

Boston, MA 02108

(617) 423-1444

This Center provides consultation and training primarily for community-based groups in such areas as funding and organizational development, community organizing and advocacy, research, publicity, program planning and development, institutional change, and networking. It will assist with project design and implementation, conflict resolution, and policy analysis. No membership is required, but operational funding is provided from foundations and sliding fees from users.

The Support Center of Massachusetts (SCM)

20 Park Plaza, Suite 530

Boston, MA 02116-4399

(617) 338-1331

A catalog of services and courses is available on request. Nonprofit organizations must have IRS Code 501(c)(3) status to be eligible for services. SCM provides a resource library, and workshops supplying information and training on funding, long-term planning and financial management skills, human resource development, including training for board of director candidates. Workshops are 1/2 or full days each, and range from \$40 to \$80 each on a sliding scale. Programs for Board of Director candidates are provided at no charge.

Two other programs are offered:

The Support Center of Massachusetts - continued

- (1) Accounting Assistance Program matches eligible nonprofit organizations whose annual agency budgets do not exceed \$350,000.00 with an accountant volunteer for short term financial management programs
- (2) Legal Assistance Program matches eligible nonprofit organizations whose annual agency budgets do not exceed \$250,000 with a volunteer lawyer for business related legal services on projects.

GENERAL BUSINESS/FINANCING RESOURCES

State Office of Minority & Women Business Assistance (SOMWBA)
100 Cambridge Street, 13th Floor
Boston, MA 02202
(617) 727-8692

SOMWBA is the state agency responsible for state (not U.S.) certification of minority-owned and women-owned and controlled business enterprises (MBEs and WBEs). Businesses may be headquartered or located anywhere in the United States. State Purchasing Agencies are required to target the purchase of 10% of their construction and 5% of their goods and services from SOMWBA certified businesses. The certification process includes detailed financial submissions, analysis of the corporate or business structure, and various audit activity by SOMWBA. Essentially, a business must be beneficially owned and actively controlled by women or minorities, or both, to be certified. Note that WBEs are targeted only in the construction area of state procurement. Listings of certified MBEs and WBEs and relevant regulations (425 CMR 2.00) are available from the State Bookstore.

Massachusetts Office of Business Development
Business Information Service
(Small Business Purchasing Program)
One Ashburton Place, Room 2101
Boston, MA 02108
(617) 727-3206

The purpose of this program is to promote full participation of citizens and businesses in the purchasing process of the Commonwealth. Although most of the free publications from the Business Information Office are not targeted to nonprofit organizations, the **Massachusetts Financial Resources Directory** may be useful to human service providers because it contains a compendium of federal, state and private resources for financing and other business support.

Massachusetts Industrial Finance Agency (MIFA)

**75 Federal Street
Boston, MA 02110**

(617) 451-2477

Contact: Allison Coleman, Program Manager

MIFA operates a program for capital financing needs starting at \$1.5 million which is currently available to any human service provider on stand alone basis. MIFA also acts as a reference point for any questions regarding capital financing, and is working toward a pooled bonding program with foundations in the future.

Child Care Program (Dependent Care Assistance Program)

MASSPIRG Education Fund

29 Temple Place

Boston, MA 02111-1305

(617) 292-4800

This organization provides "The DCAP Handbook: A How-to Manual for Employers and Employees." The manual was produced by MASSPIRG as a comprehensive guide for the Dependent Care Assistance Program (DCAP) Salary Reduction Arrangement (SRA) that offers some eligible employees with a means to make care for a young child, aging parent, or disabled family member more affordable. The manual provides all the information that most employers need to set up a DCAP SRA, and that most employees need to decide whether they will benefit by participating. Pamphlets/order forms are available by calling MASSPIRG, or you may order at the above address as follows:

- o State the number of copies requested;
- o Cost: \$35 each for companies of 50 or more employees;
 \$25 each for individuals, nonprofits, companies below 50 employees;
 Plus \$3.00 shipping for each copy;
- o Check made out to MASSPIRG Education Fund;
- o State your name, organization, address, telephone.

Massachusetts Office on Disability (MOD)

One Ashburton Place, Room 1305

Boston, MA 02108

(617) 727-7440

This state office has been designated at the lead agency on the Americans with Disabilities Act (ADA) compliance for Massachusetts. It has information and provides technical assistance on state and local government services, facilities, programs and public transportation requirements under the ADA. A consortium of state disability agencies is working together with MOD to monitor and ensure compliance with the ADA requirements.

PURCHASE OF EQUIPMENT, GOODS AND SUPPLIES

FEDERAL SURPLUS PROPERTY

State Agency for Surplus Property (SASP) (Federal Property)
Department of Procurement and General Services
One Ashburton Place, Room 1017
Boston, MA 02108
(617) 727-7500, ext. 241

Taunton Warehouse
Access Road
Dever State School
Taunton, MA
(617) 727-0716

This federal program is overseen by the General Services Administration and administered by the state. It permits government and not-for-profit organizations (IRS Section 501 exempt) to purchase all types of federal surplus property at cost of shipping only. A Certification of Eligibility form must be approved prior to participation, and is available from the Boston address listed above.

If an eligible organization requires equipment or supplies not currently available, a "Needs Listing" form, available with the application packet, must be submitted to DPGS. The request will be placed in queue for the next screening of available items.

STATE SURPLUS PROPERTY

State Surplus Property Office (SSPO)
Department of Procurement and General Services
One Ashburton Place, Room 1017
Boston, MA 02108
(617) 727-7500, ext. 246

State surplus property is made available in priority order to: State Agencies, Political Subdivisions (authorities, counties, municipalities), and finally to Not-For-Profit Organizations. A monthly listing is distributed indicating what items are available. A letter of request for the listing and items on it must be sent to the SSPO, and shipping must be provided by the requesting party.

STATE COMMODITY CONTRACT VENDORS

**Collective Purchasing Unit
Department of Procurement and General Services
One Ashburton Place, Room 1017
Boston, MA 02108
(617) 727-7500, ext. 245**

This unit is charged with distributing copies of state blanket contract award notices to all political subdivisions. Human Service Providers may purchase goods and supplies, usually at a substantial discount, through certain state contracts that have been designated as available to Providers. Currently, Providers may take advantage of the state Office Supply Contract (vendor: MacIsaac Products for the Office), and Personal Computer Contracts (11 vendors). Details are available from the Collective Purchasing Unit.

FEDERAL GOVERNMENT INFORMATION

**General Services Administration (GSA)
Business Service Center
Thomas P. O'Neill Jr. Federal Building
10 Causeway Street
Boston, MA 02222
(617) 565-8100**

The GSA provides information such as the Federal Debarred Vendor List for A-133 Audit Requirements, assistance in doing business with the federal government, and placement on the federal bidders' list.

**Government Printing Office Book Store
Thomas P. O'Neill Jr. Federal Building
10 Causeway Street
Boston, MA 02222
(617) 565-4180**

The federal bookstore provides all printed material issued by the federal government. Catalogs are available with each order, or multiple copies may be provided to agencies that will disseminate it broadly. This is the source that provides the **Catalog of Federal Domestic Assistance (CFDA)**; subscriptions are \$46.00 per year (cite ID # COF92).

APPENDIX 13:

**Purchase-of-Service
System
User Handbook**

Order Form

Commonwealth of Massachusetts
Department of Procurement and General Services

**Purchase-of-Service System
User Handbook**

Order Form

Name: _____

Organization: _____

Address: _____

City: _____ State: _____ Zip: _____ - _____

Phone: () _____ - _____ Contact Person: _____

Please accept this order of:

_____ Handbook(s) @ \$5.00/each: \$ _____
(*\$5.00 x number handbook(s) requested*)

Postage and handling @ \$3.70/each: \$ _____
(*\$3.70 x number handbook(s) requested*)

Total: \$ _____

Note: The cost includes any handbook update(s) that are issued prior to June 30, 1993.

_____ Payment enclosed with check payable to: Commonwealth of Massachusetts
(*payment must accompany order*)
or

_____ For State Governmental Entities only, payment reference document number: _____

Mail to: P.O.S. Handbook
 Department of Procurement & General Services
 Room 1017
 One Ashburton Place
 Boston, MA 02108

For further information please call (617) 727-7500

